

A SUBMINIMUM WAGE FOR YOUTH

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EXECUTIVE SUMMARY

Youth unemployment has long been a problem in the United States, affecting inner-city, minority youth with particular severity. The federal government has tried to address this problem with a variety of programs, targeting youths as recipients of special programs, providing tax credits to employers who give jobs to certain targeted groups, and providing incentives to employers via a subminimum wage for students. Currently, the debate about how to best reduce youth unemployment has centered on the idea of a "youth differential" or subminimum wage.

The four current proposals before Congress, introduced by Senators Hatch and Percy and Representatives Campbell and Simon, would amend the Fair Labor Standards Act of 1938 (FLSA) to reduce by 15-25 percent the minimum hourly wage paid to teenagers aged 16-19 for their first six months on the job. There was no action on these proposals during the first session of the 97th Congress, but serious consideration of such proposals may be expected in the future.

Proponents of a youth differential argue that such a measure would give employers the incentive to hire youth who were previously not affordable or cost-effective due to minimum wage requirements. Although individual teenagers would be paid less, theoretically more teenagers would have jobs, thus reducing overall youth unemployment. Proponents of a youth differential, primarily members of the business community and especially those in labor intensive industries, argue that the minimum wage historically has been responsible for youth unemployment. A youth differential would supposedly give business the incentive to create new jobs and train youth, particularly minority teenagers who may not have sufficient qualifications to be cost-efficient at the minimum wage.

Opponents of a youth differential, primarily organized labor and groups representing Blacks, Hispanics, youth and low-income adult workers, disagree that the minimum wage has been a primary cause of youth unemployment and question the job-creating potential of a youth differential. Opponents are convinced that the only sure effect of a youth subminimum wage would be a substantial reduction in labor costs to youth-intensive corporations. A youth differential could also displace older workers by younger and hence cheaper workers and create a "substitution" effect. Additionally, employers could fire youth at the end of the six-month period, or youth at the subminimum wage. This would negate any training effect that the bill might have been designed to create. Opponents feel that a youth subminimum wage would constitute income and age discrimination and create a subclass of workers. They also question whether youth would be willing to work at a subminimum wage.

Inner-city minority youth are particularly affected by high unemployment. Youth unemployment rates in some cities are as high as 88 percent. Although proponents of a youth differential claim that minority youth would benefit from a subminimum wage, none of the bills currently before Congress contain targeting provisions to ensure that those who need employment the most would actually receive it. The fact that there is little work left in many inner cities to be stimulated by a subminimum wage is a problem for minority youth. An additional concern is that a youth differential could pit minority youth with a history of deficient education and employment skills against

better-prepared White youth. Implications for Hispanics are great since Hispanic youth are the least educationally equipped of all teenaged groups.

Hispanic adults could also be greatly affected by a youth differential since some youth for adult job substitution would undoubtedly occur. Adults holding minimum wage jobs and those adults from 20 to 24 are particularly vulnerable to job displacement. Due to their unique demographic characteristics, (a median age of 20 compared to 30 years for non-Hispanics) adult Hispanics are extremely susceptible to displacement by both non-Hispanic and Hispanic youth. Both Hispanic adults and youth are also more concentrated than the total population in occupations paying at, or just above the minimum wage. This is a particular problem for adult Hispanic women, more than half of whom are concentrated in two of the lowest paying occupations.

The question of a youth differential or subminimum wage remains extremely complex. It is impossible to fully judge its potential impact in terms of job creation, substitution, economic impacts and differential effects on particular subgroups in the absence of actual experience. However, there are sufficient indications that there could well be negative impacts on low-income and minority teenagers, and on adults working at the minimum wage level, to cause those concerned with youth unemployment and civil rights to be gravely concerned about this possible national experiment.

I. INTRODUCTION

The issue of youth unemployment has long been an acute and chronic problem facing America. Since 1954, unemployment among youth ages 16-19 has been four to five times the national average for adults. In May 1982 youth unemployment was 23.1 percent, compared to 8.4 percent for adults.¹ Particularly vulnerable are minority youth. For decades unemployment among minority teenagers has hovered between 25 and 35 percent; the official rate was 38.3 percent in 1977, 36.3 percent in 1978, 33.5 percent in 1979, and 35.8 percent in 1980.² In economically depressed inner cities, estimates place inner-city minority youth joblessness above 50 percent in some cities. In April 1982, the U.S. Conference of Mayors reported rates of 83 percent in Riverside, California; 88 percent in Gary, Indiana; 79 percent in Montgomery, Alabama; and 53 percent in Chicago.³

There have been many attempts to alleviate this situation, involving both the public and private sectors. The federal government has for years targeted youth as recipients of special programs designed to lower persistently high unemployment rates. Since its passage in 1977, the Youth Employment Demonstration Projects Act (YEDPA) of the Comprehensive Employment and Training Act (CETA) has been the primary federal mechanism for grappling with youth unemployment. Despite such efforts, however, a significant decrease in youth unemployment, particularly for minorities, has remained an elusive goal. The elimination of or cutbacks in certain manpower programs within CETA (such as Titles II and VI, Public Service Employment, and Title IV, YEDPA) due to the Reagan Administration's budget cuts, indicate a forthcoming decrease in public resources targeted to ameliorating the problem. In their place, responses from the private sector are proposed.

A plan has recently resurfaced which its advocates maintain will significantly lower youth unemployment. First introduced in Congress in March 1981 by Senator Orrin Hatch (R-UT), the plan calls for amendments to the Fair Labor Standards Act of 1938 (FLSA), the statutory basis of the minimum wage, to reduce by 25 percent the minimum hourly wage paid to teenagers aged 16 to 19 their first six months on the job.⁴ Other, similar measures have been introduced in both the House and Senate for a subminimum wage, or "youth differential." There was no action on these proposals during the first session of the 97th Congress, but serious consideration of such proposals may be expected the future.

Behind the push for a subminimum wage are some members of the business community, especially those in labor-intensive industries such as food service and retail trade, the newly dominant conservatives, particularly in the Senate, as well as President Reagan.

Opposed are organized labor, led by the AFL-CIO, liberals in the House and Senate, and many groups representing those most likely to be affected by a subminimum wage -- Hispanics, Blacks, youth, and low-income adult workers, at or just above the minimum wage, who might be replaced by subminimum "cheap labor."

Exacerbating the debate is the lack of a clear-cut, definitive answer to two fundamental questions: (1) Has the minimum wage aggravated youth unemployment? and (2) To what extent would a youth differential lower teenage unemployment, and with what effects on adult employment?

Another fundamental problem with the entire subminimum wage debate is that it attempts to treat a complex ideological issue as primarily a technical economic issue, disregarding the fact that the inherent limitations of economic analysis render it unreliable as the primary basis for policy

formulation. This point, often neglected by opponents and proponents alike, is central to the controversy.

The youth differential is not a new concept. In 1966 and 1970, prompted by Congressional debate, the Department of Labor (DOL) commissioned studies to measure the effects of the minimum wage on youth unemployment. In 1973, President Richard Nixon vetoed a bill raising the minimum wage which did not contain his youth differential provision. His veto was sustained, but in 1974, he signed essentially the same bill when it became apparent he did not have votes to sustain a second veto. In 1977, although opposed by the Carter Administration, a subminimum wage proposal resurfaced again. Republicans introduced a youth differential bill in the heavily Democratically controlled Congress; it was barely defeated in the House, 211-210.

The political transformation wrought since the 1980 elections currently makes passage of a youth differential a real possibility. The issue remained dormant until Spring 1981; Congress voted in 1977 to raise the minimum wage in four annual increments, culminating in the January 1, 1981 increase to \$3.35 per hour. Under the law, no further raises are scheduled. In 1977, Congress also established the Minimum Wage Study Commission (MWSC), an independent, non-partisan body which would research all aspects of the minimum wage and recommend to Congress future action. Its report was released May 24, 1981, with recommendations against the youth differential.⁵ Political observers note, however, that the Commission was established by Democrats, and is believed by conservatives to be liberal and pro-labor. This may cause President Reagan and Congressional conservatives to disregard its findings and recommendations as biased, leaving them free to push ahead with subminimum wage legislation.

The youth differential is, on a higher level, a clash between traditional antagonists -- big business versus organized labor. At issue are traditional points of conflict: the demand for increased profits and production, against the desire for higher wages. The implications for other groups are no less great. Low-income workers and minorities, especially Black and Hispanic teenagers -- the targeted beneficiaries -- would be affected by a subminimum wage bill and by its impact on employment opportunities on the economy. The National Council of La Raza (NCLR) has therefore analyzed the issue of the subminimum wage. This paper assesses the arguments and evidence presented by both sides, summarizes the past and present history of the minimum wage, and examines implications for Hispanics in the pending legislation.

II. HISTORY OF THE FAIR LABOR STANDARDS ACT

The FLSA of 1938 is one of the oldest and most vulnerable pieces of U.S. social legislation, representing the culmination of decades of labor struggle. The concept of a comprehensive two-tier minimum wage represents either (1) a departure from or (2) a necessary refinement of a historical development of a minimum wage -- depending on whether the analyst opposes or supports a youth differential. Because of the long and hard-fought history of a minimum wage legislation, particularly its position as a fundamental and non-negotiable tenet of labor doctrine, a brief overview of the historical framework of this issue is necessary to put the current debate into context.

A. Labor Legislation Through 1938

In 1840, President Martin Van Buren issued the first executive order seeking to protect workers; it limited to ten hours the work day of laborers and mechanics on government construction sites. The proclamation met with wide opposition and suffered from non-existent enforcement procedures; however,

it established the precedent of federal intervention in the labor market to correct abuses and buttressed the rights of workers. But the theory of laissez-faire, that economic dealings were private contractual arrangements between parties, was a major barrier to further federal intervention. Efforts therefore began at the state level to enact laws protecting workers and their rights.

In 1861, the first labor law for federal public workers was passed, upgrading working conditions and pay scales in Navy shipyards. In 1868, Congress followed with an eight-hour per day law for public sector workers, backed by an executive order from President Ulysses Grant, requiring federal contractors to comply with the law in order to conduct business with the government. By 1872, popular support for the eight-hour day was such that both the Republican and Democratic platforms had eight-hour clauses. In 1876, the Supreme Court held that compliance with the 1868 federal public works laws was not mandatory (U.S. v. Martin); this adverse decision effectively undercut Congressional action to protect workers. State courts also ruled against workers; in 1880, the California State Supreme Court held that penalties for non-compliance with a public works law were unconstitutional. This impasse remained until 1903, when the Supreme Court ruled that states did have the authority to set standards for public workers and could provide penalties for violations.

The next advance in basic workers rights was wage standards. President Theodore Roosevelt, a champion of "progressivism," advocated a national minimum wage. By 1912, eight states had a minimum wage law for women and children, but by 1923, only eight more states had added such legislation. nineteenth century interpretation of laissez-faire continued to discourage legislation. The Supreme Court ruled against minimum wages (under certain

conditions) in Adkins v. Children's Hospital (1923), so that most states' minimum wage laws violated that decision. However, popular support was growing in many areas; employers voluntarily complied with minimum wage even after the state laws had been nullified by Adkins.

The Great Depression inaugurated new and sweeping government intervention in the labor market. In his New Deal, President Franklin Roosevelt proposed a sweeping economic and labor package, encompassed in the National Industry Recovery Act (NIRA) of 1933. NIRA gave the President power to set minimum wage and maximum hour limits for all workers in the private sector. Farmworkers were by the Agriculture Adjustment Act. Roosevelt argued that the severe economic conditions justified the Act, since the economy was a national mechanism requiring stimulation by federal action, as granted through the interstate commerce clause. The Supreme Court, however, felt otherwise. In a series of decisions, the Court struck down NIRA and other labor laws as well. In the case of Moorhead v. People, ex. Rel. Tiplado (1936), the Court held that neither the federal government nor the states were justified in setting minimum wage standards. Such laws were declared to be an arbitrary interference with due process and the liberty of contract.

Public anger and frustration against the Court mounted, since NIRA and the minimum wage had become immensely popular. Re-elected in 1936, President Roosevelt declared, "The People, by overwhelming vote, are in favor of a floor below which wages shall not fall, and a ceiling beyond which hours shall not rise."⁶ The result of this determination was the famous "Court-packing" scheme, an attempt to nullify the anti-New Deal justices adamantly opposed to social legislation. The plan aroused tremendous antipathy and nearly destroyed the virtual unanimity previously enjoyed by the New Deal. However, two of the five anti-New Deal justices shifted ground; one switched his vote

and another announced his retirement. Justice Owen Roberts in West Coast Hotel v. Parrish (1937) broke the tie and voted to build the Washington State minimum wage law. The Court had been persuaded to accept the principle of the minimum wage.

The FLSA was introduced as the successor to NIRA. The FLSA differed slightly from NIRA, but contained the essential wage-hour provisions. However, political opposition brought about the Court-packed debate stiffened Congressional antagonism to the FLSA. While it passed the Senate quickly, the House delayed time and again throughout 1937 and 1938. Roosevelt convened a special session of Congress in December 1937, but to no avail. The turning point came on May 3, 1938, when Claude Pepper, running for Senator in the Florida (tantamount to election), soundly defeated his opponent, a vocal anti-New Dealer. The campaign had centered around the minimum wage. Pepper's victory in the conservative South was widely viewed as the death knell for opponents of the FLSA. Within the month the bill passed. President Roosevelt stated, "Except for the Social Security Act, it is the most far-reaching, far sighted program ever adopted here or in any other country."⁷

B. The FLSA Since 1938

The FLSA as enacted regulated wages, hours, and child labor for employees of private businesses engaged primarily in interstate commerce. Initially, the Act covered only about 33 percent of U.S. laborers, or about 11 million workers. The FLSA established a Wage and Hour Division within the Department of Labor (DOL) to administer and enforce the Act, including inspectors with subpoena powers. The minimum wage was set at 25 cents an hour, to be raised as necessary by Congress. Amendments in 1961, 1968, and 1974 broadly expanded FLSA coverage. Currently, approximately 60 million workers are covered by minimum wage legislation. Table 1 lists the increases in the minimum wage since 1938.⁸

Table 1
Minimum Wage Standards, 1938-81

Legislation	Hourly Rate	Effective Date
Act of 1938	\$.25	October 24, 1938
	.35	October 24, 1939
	.40	October 24, 1945
Amendments of:		
1949	.75	January 25, 1950
1955	1.00	March 1, 1956
1961	1.15	September 3, 1961
	1.25	September 3, 1963
1966	1.40	February 1, 1967
	1.60	February 1, 1968
1974	2.00	May 1, 1974
	2.10	January 1, 1975
	2.30	January 1, 1976
1977	2.65	January 1, 1978
	2.90	January 1, 1979
	3.10	January 1, 1980
	3.35	January 1, 1981

Source: Jonathan Grossman, "Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage," Monthly Labor Review, Vol. 101, No. 6, June 1978, p. 20.

C. Proposed Legislation

On March 24 and 25, 1981, the Labor Subcommittee of the Senate Labor and Human Resources Committee, chaired by Senator Dan Nickles (R-OK), held hearings on several bills to amend the FLSA of 1938. While the bills vary, the legislative intent of each is the same. Table 2 summarizes the main provisions of the major subminimum proposals before the 97th Congress. All the bills were introduced as amendments to the FLSA of 1938. This is necessary since the Act is the legislative authority for the minimum wage.

All the proposed legislation follow a similar track: a 15 to 25 percent reduction in the minimum wage for teenagers, a six- to 12-month coverage period, and penalties for employers who violate the law by paying less than the subminimum, or worse, engage in "substitution" — replacing older workers with teenagers to take advantage of the youth differential, and/or replacing youth with younger workers once they become too old or complete the period during which they may receive a subminimum wage.

Table 2

Comparison of Major Subminimum Wage Proposals

Provision	Sen. Hatch (S. 348)	Sen. Percy (S. 430)	Rep. Campbell (H.R. 157)	Rep. Simon (H.R. 20001)
Percentage of Minimum Wage (\$3.35)	75% (\$2.50)	85% (\$.85)	85% (\$2.85)	85% (\$2.85)
Age Range	16-19	16-19	16-19	16-18
Maximum Length of Employment Under Subminimum Wage	6 months	6 months	1 year	6 months
Penalties for Non-Compliance	Up to \$2,500 for first offense; up to \$10,000 for each subsequent offense.	Up to \$2,500 for first offense, \$10,000 for subsequent offense; employer must pay lost wages and overtime pay.	Employer must pay lost wages and/or overtime pay.	Employer must pay lost wages and/or overtime pay.

In addition, all the bills provide that the subminimum wage rate is not in effect if an individual has worked for the same employer for more than the specified length of time or already earns minimum wage or more (i.e., no retroactivity for youth 16-19).

The subminimum wage debate underwent a relatively swift rise and fall during the Spring of 1981. Several factors accounted for this. While President Reagan gave strong encouragement to youth differential proposals, particularly in the early days of his Administration, several senior officials, such as Budget Director David Stockman, indicated their reluctance to pursue a youth differential until the budget and tax cuts were resolved in Congress, feeling it would divert Congressional attention and stir needless controversy. Apparently, President Reagan found such arguments persuasive, as his public endorsements of the proposals waned noticeably as opposition stiffened. In addition, business interests, particularly labor-intensive industries, worried that the price of a youth differential might be off-setting an increase in the basic minimum wage, a cost viewed by them as unacceptable. Therefore, both the Administration and business interests made less than an all-out effort to support Senator Hatch; the White House preferred to await the outcome of its economic plan in Congress, and business realized the cuts would serve as an effective litmus test to help them gauge the mood of Congress. Yet Senator Hatch pushed ahead with a youth differential last March, regardless of the Administration's wishes, and is likely to do so again. The passage of President Reagan's economic program in 1981 indicates that the path may be clear for renewed youth differential initiatives from all sides, once the budget debate is concluded in the Summer of 1982.

Political observers note that the Administration must still formulate a comprehensive employment policy. The new employment and training legislation now nearing passage, coupled with President Reagan's belief that the federal government should do less and private industry more in providing jobs for American youth, as well as his own continuing adherence to the subminimum wage of forthcoming federal youth employment and training policies.

At the present time, however, no further action has been taken by either the House or Senate on the subminimum proposals, although the issue is expected to arise again, perhaps in conjunction with the various "enterprise zone" bills now pending, no schedule for future legislative activity on the issue has yet been established.

III. THE ISSUES

A. Proponent Perspective

The concept of a youth differential amendment to the FLSA is both controversial and complex. Simply, stated, a subminimum wage is designed to slash youth unemployment by permitting private employers to pay youth below the minimum wage, at least for a specified initial period. Thus, proponents argue, while individual teenagers would be paid less, overall, more teenagers would have jobs, since this differential would give employers the incentive to hire other youth who previously were not affordable and/or cost-effective due to minimum wage requirements. Proponents assert that, historically, the minimum wage has been largely responsible for youth unemployment. As the minimum wage has climbed, the wage paid has exceeded the value of the worker, since youth are typically unskilled and inexperienced, and thus are initially less productive than adults. Advocates maintain the result is a form of double jeopardy for employers -- the training youth receive on the job is costly in both time and money, yet federal law requires that employers pay a minimum wage to a teenager who indeed may only be "worth" \$2.50 per hour rather than the current minimum of \$3.35. Advocates believe this is particularly true of minority youth, who with deficient educational and employment backgrounds typically have even less skills to offer.

It is argued that as operating costs have multiplied over the years, seen in rising interest rates, inflation, energy and raw materials prices, business

has found it increasingly difficult to turn a profit. Compounding the costs has been the steady climb in union wages and the basic minimum wage. During downturns in the economy, businesses institute cost-saving measures. Among these, particularly in labor-intensive industries, is elimination of marginal, minimum wage scale jobs.

Supporters of a subminimum wage claim thousands of jobs have been eradicated in this way, and that traditional youth-oriented jobs (such as service station attendants, movie ushers, supermarket baggers, and many more) have disappeared or been greatly reduced as increases in the minimum wage have made their cost prohibitive to an employer.⁹ Statistics are cited which point to a drop of approximately one to four percent in teenage employment (depending on the study)¹⁰ for each ten percent increase in the minimum wage. The minimum wage has been counter-productive, advocates claim, inevitably forcing business to eliminate traditional entry-level jobs for youth, discriminating against teenagers who comprise 30 percent of minimum wage jobs, and inexorably squeezing them out of the labor market.

A youth differential of 15 to 25 percent, proponents assert, would give business the incentive to reinstate these lost jobs, while creating thousands of new ones.¹¹ Youth would be trained and develop skills and invaluable work habits. In this respect, minority teenagers in particular would benefit from a youth differential. Production would increase, prices would come down, inflation would lessen, and teenage employment would rise substantially. Supporters claim thousands of jobs would be created; figures range from 100,000 to 400,000 for a 25 percent reduction in the minimum wage.¹² Supporters of the youth differential believe that job displacement (either deliberate substitution or regular employee turnover) of non-youth would not

be great, and in any case penalty provisions within this legislation would deter employers seeking to abuse the program.

B. Opponent Perspective

Opponents of a youth differential advance several arguments about the minimum wage issue. First, they steadfastly disagree that the minimum wage has been a primary cause of youth unemployment. Some job loss due to the minimum wage has been detected, but opponents claim this is inevitable, and in any case its figures are substantially lower than those cited by supporters of a subminimum wage.

Second, they maintain that the youth differential is a superficial economic tool unable to create the thousands of jobs envisioned by proponents. Opponents cite as proof the fact that many economic analyses, chief among them those of the Minimum Wage Study Commission (MWSC), are unable to conclusively validate proponent claims as the widespread job-creating potential of a youth differential.

Third, opponents believe proposed beneficiaries would gain the least; those industries which are the primary employers of youth are those who would prosper. Opponents maintain the food service and retail trade industries would reap windfall profits from a youth differential.¹³ The fast-food chains, among the nation's largest employers of teenagers and many of them long-standing proponents of a youth differential, are cited as an example. Moreover, opponents are concerned that, absent targeting provisions within subminimum legislation, there is no guarantee that industry would hire additional youth, particularly minority teenagers. Opponents are convinced the only sure effect of a youth differential would be a substantial reduction in labor costs to youth-intensive corporations.¹⁴ Opponents believe the true reason labor-intensive industries have lobbied so vigorously for a

comprehensive youth differential is not so much to lower youth unemployment as to raise their profits.

Fourth, opponents state that a youth differential policy would displace older workers by younger ones — the "substitution effect." They brand as absurd assertions by Congressional and business supporters that the penalties carried by the bills will deter abuse by employers. Opponents contend that even if convicted, the employer could reap financial gains that would far outweigh any monetary penalty. Further, opponents counter as specious business contentions that it would be self-defeating to hire and train young workers, and then fire them at the end of six months; they maintain the work to be performed at the minimum wage simply is not that difficult to learn, so employers would lose nothing and earn profits by firing teenagers after six months.¹⁵ Opponents claim those most likely to be displaced are adults over 20 who currently comprise 70 percent of the minimum wage workforce. Opponents assert that older workers, many with family obligations, would be replaced by employers seeking cheaper labor, who would then fire those teenagers as they too reached the trigger age of 20. Those opposing a youth differential state that enactment would simply redistribute unemployment and lessen purchasing power of low-income workers.¹⁶

In addition, opponents reject a subminimum wage because of its civil rights implications. They argue that a youth differential is income and age discrimination, creates a "subclass" of workers, and violates the long-held principle of equal pay for work.¹⁷ Further, opponents maintain that a youth differential is discriminatory towards minorities in that it would have a disproportionate impact on Hispanic and Black teenagers and it would open the door to further legislated discrimination against other targeted groups, purportedly to "aid" them as well.¹⁸

Another major argument against youth differential, opponents state, is that it is simply a bad idea at the wrong time. The demographics of our population have changed. Due to decreased birth rates over the last 20 years, there will be substantially fewer teenagers entering the labor market in the 1980s than in the previous decade. Therefore, opponents state, youth unemployment will lessen of itself, obviating the need for a youth differential.

C. Review of the Issues

Questions related to the youth differential include: (1) the minimum wage and youth unemployment, (2) job creation, (3) substitution, (4) legal and constitutional issues, (5) economic issues, and (6) demographic issues.

1. Relationship Between Minimum Wage and Youth Unemployment

Over the years, more than two dozen major studies by economists have examined the effects of the minimum wage on youth unemployment. A central issue involves calculating the extent to which employers regard a minimum wage as an instrument that pays teenagers more than they are "worth" in terms of productivity, or simply more than the employer can afford, with the result that jobs are eliminated or go to adult workers viewed as more productive. While many economic approaches and methodologies have been used, often resulting in widely varying conclusions, on one point a consensus has emerged: some degree of unemployment, particularly for youth, is caused by federal minimum wage requirements. What is disputed is the percentage of disemployment.

Most of the above studies have estimated that for every ten percent increase in the minimum wage, teenage employment has dropped one to four percent. After a thorough review of the past literature, the M/SC has found a much smaller disemployment variable for youth -- barely one percent for every

ten percent increase in the minimum wage.¹⁹ The Commission and others have found that crucial factors were not considered in models which indicate higher percentages of teenage unemployment and thus "prove" the damaging effects of the minimum wage. As noted, by Erik Payne Butler, Senior Research Associate at the Center for Public Service at Brandeis University, and former Executive Director of the Carter Administration's Vice President's Task Force on Youth Employment:

Those who favor the differential attribute job losses among youth to the increasing minimum wage, and argue that a lower subminimum would reverse job losses. The evidence suggests to me that both the losses and the implications drawn for policy are wrongly related to the minimum wage. Indeed, once the growth of government employment programs and the increase of women in the labor force are factored in, net job loss is negligible.²⁰

Results from several studies strongly suggest that previous analyses were biased towards overstatement of the effect of the minimum wage.²¹ A review of the major pro-subminimum studies and the subsequent critiques reveals that in many instances these treatments ignored demographics and used methodologies which neglected such crucial factors as income transfer payments (welfare and other government subsidies) and the annual enlistment in military service for hundreds of thousands of teenagers.²²

An econometric model often used to support a youth differential weighs only the demand for labor, and not the changes in supply; this negatively distorts the impact of the minimum wage, since the bulge in the youth labor force due to the "baby boom" has been a significant factor in youth unemployment. As an example, in his often-quoted study, proponent Professor Walter Williams measured the ratio of teenage unemployment to total employment. Since this ratio was rising, just as the total number of teenagers was increasing relative to the number of adults, Williams simply deduced that the minimum wage was to blame. A review of past trends proves .

this false. For seven out of 12 increases in the minimum wage between 1948 and 1979, comparing the teenage unemployment rate for the 12-month period following each of these increases with the same rate for the previous year shows that youth unemployment declined following increases in the minimum wage.²³ Indeed, the original legislative intent of the FLSA reflected concern over possible disemployment consequences of a minimum wage. Seeking to positively affect employment, Congress consciously wrote amendments which required employers to pay workers overtime for extra hours. This was designed to exert strong financial pressure on employers to hire additional workers rather than have an ultimately higher payroll due to overtime requirements.²⁴

Additionally, some of the pro-youth differential studies cite outdated statistics and conclusions. Many of these references date from the 1960s and early 1970s, when econometric models lacked the precision possible today. Walter Williams' work, "Youth and Minority Unemployment" (1977), is a good example. His citations are from previous studies conducted in 1962, 1965, 1969, and 1972. Williams, a Black economist, is a leading proponent of a youth differential, and his work and statements are often used by Congressional supporters to advance the subminimum wage argument. In its working papers, the MWSC points out that inherent data limitations weaken pro-youth differential conclusions. According to the Commission, some have failed to account for employment sectors uncovered by the FLSA, some are unable to include information on state minimum wages, and some suffer from incomplete or unwarranted assumptions.²⁵

2. Youth Differential and Job Creation

Congressional backers and the business community are most enthusiastic when discussing the potential of a comprehensive subminimum wage to create jobs for youth. The figures cited by advocates vary widely, however; a review

of past studies indicates that the estimates are based on approximations or predictions resting on economic assumptions which have yet to be validated.

The available empirical evidence to support either side of this issue is thin. The MWSA has stated that after three years of research, the goal of defining a youth differential in terms of aggregate numbers of jobs created "remains elusive."²⁶

Senior MWSA Economist Charles Brown summarized his findings on labor-demand effects by pointing out, "The preceding pages' central message on the demand for teenage labor."²⁷ The Commission makes a further point, significant in its implications. While a youth differential might create some youth-oriented jobs, it would not conversely lower high teenage unemployment. The Commission states,

One should not assume that each addition to teenage employment will lead to one person reduction in teenage unemployment; previous work suggests that the effect on teenage unemployment could be quite muted, even if the effect on teenage employment were significant.²⁸

According to economist Daniel Hamermesh of the University of Michigan, a youth differential of 25 percent would produce 381,000 teenage jobs.²⁹ The Washington Post summarized several estimates and concluded that Senator Hatch's 25 percent proposal would create between 85,000 and 255,000 teen jobs.³⁰

Youth differential proponent Robert Bradford, Vice President of the National Restaurant Association (NRA), whose members are the nation's largest employers of youth, employing nearly 1.5 million, in his written testimony to the Senate Labor and Human Resources Subcommittee, answered the question of how many jobs a youth differential would create by saying, "Frankly, we do not know."³¹

In a December 1980 interview in U.S. News and World Report, Professor Walter Williams was asked how many jobs would be created by a youth differential. He stated, "There is no theoretical evidence to answer that question."³² In the same interview, in response to the question of how low a subminimum wage would need to be to affect youth unemployment, he said,

I would argue for one that was 60 to 70 percent of the adult minimum wage -- which translates to \$2 to \$2.35 an hour as of January 1981. We would need a fairly big differential to make a dent in the unemployment problems of young people.

Thus a leading academic proponent of the youth differential states that a minimum wage reduction larger than the proposed 15 to 25 percent would be desirable for significant impact on youth unemployment. If this is true, enacting a 25 percent reduction might simply cut wages for low-income workers, while failing to provide additional jobs as asserted.

Proponents maintain that the marginal youth-oriented jobs which have been eliminated over the years would revive under the youth differential incentive. The question is: What happened to those jobs? There are three possible answers: automation, self-service, or loss of services. All indications are that consumers and employers alike have adjusted to most of these changes; will a business consider it desirable to incur additional labor costs to reinstate such jobs? The argument is that more staff means more service, and more service means increased business. Yet, according to testimony by the NRA, the National Federation of Independent Business, the American Federation of Bakers, and other witnesses, even small increases in the minimum wage force them to cut services, staff, and production.³³ Will small decreases in the minimum wage lead to reinstatement of these jobs?

Another issue casts doubt on the job-creating potential of a comprehensive youth differential. Proponents contend that business would hire additional youth at 25 percent below the minimum wage. An equally important

question is: Would teenagers work at the subminimum wage in large numbers? Evidence indicates they would not. A study by the Work in America Institute of New York strongly suggests that minority teenagers in particular find little enough incentive at the minimum wage, let alone a subminimum. The MWSA also examined the question by analyzing the "reservation wages" of youth -- the lowest wage teenagers stated they would accept on job applications and in surveys. In 1976, only 1.9 percent of teenagers in school, and 4.1 percent of all unemployed teenagers, said they would be willing to work at 75 percent of the minimum wage.³⁴

The 1979 National Longitudinal Survey (NLS) Survey of Youth also explored the issues of reservation wages and youth willingness to work at subminimum wage. The youth participating in the survey were asked about their willingness to accept full-time employment in each of seven different types of work at \$2.50, \$3.50 and \$5.00 per hour. Substantial proportions of the youth indicated a willingness to work at a wage that was approximately one-seventh below the minimum wage. At \$2.50 per hour, 21 percent of the youth indicated that they would be willing to wash dishes, 20 percent would work in a factory, 20 percent would work as a cleaning person, 33 percent would work at a check-out counter in a supermarket, 23 percent would clean up their neighborhoods, 31 percent would work at a hamburger place and 38 percent would work away from home in a national forest or park.³⁵ Although some jobs are clearly more popular than others, the figures for the two jobs which are part of the federal government youth employment and training programs (cleaning up neighborhoods and working away from home in a national park) are misleading for minority youth. Minority youth, particularly Hispanics, were less willing than White youth to accept these jobs, even at \$5.00 per hour. Thus, at least some of the job opportunities available in government programs for youth are

less appealing to minorities. Still, minorities, particularly Black youth, were more willing than White youth to accept all of the five private sector jobs at each wage rate.

The cumulative evidence is clear: there is no reliable estimate stemming from empirical data as the job creation results of a youth differential. Further, in testimony, several leading proponents on the youth differential acknowledge that assertions of large-scale youth differential-induced job gains are "still speculations, not hard evidence."³⁶ Written Congressional testimony by the NRA states, "So many factors affect business ability to create jobs -- taxes, interest rates, the general state of the economy -- that any accurate prediction is impossible."³⁷ Supporters believe the subminimum wage should be enacted regardless of knowledge gaps concerning the job creation impact of a youth differential. Opponents, on the other hand, believe the lack of assurance that many teenage jobs will be created is sufficient reason not to enact a youth differential, since they point to negative effects of lowered income levels under the subminimum wage legislation.

The contention that a youth differential would particularly affect minority youth in a positive manner is also suspect. Indeed, an untargeted youth differential could have a substantially negative effect on minority youth. The Carter Administration's Vice President's task Force on Youth Employment cited studies suggesting that by 1985, one-third of all minority youth who have worked will have done so at a fast-food restaurant.³⁸ In and of itself, this fact would not be harmful, since youth employment specialists note that early youth work experience is vital to future soci-economic advancement. However, a youth differential which does not significantly increase minority teenage employment within the very industry where a large-

percentage of that population is situated can only underscore opponent fears as to the damaging impact of widespread lowered income levels for a youth population tightly concentrated in one industry. Even if a youth differential is enacted and thousands of jobs are created, no provisions exist within the proposed bills to insure that those who need employment the most would actually receive it. Without some form of targeting within the legislation, past experiences demonstrate that minority needs will not be adequately addressed, and White youth, who have substantially lower unemployment rates than Hispanics and Blacks, will be the main beneficiaries of a youth differential.

A major problem for minority teenagers is that there is little work left in many inner cities to be stimulated by a subminimum wage. Over the years, industry has fled the central cities, resulting in the suburbanization of jobs in largely White areas. Even fast-food restaurants seem concentrated in the suburbs. Employment figures during the mid-1970s show consistently higher employment rates in suburban as opposed to central city areas.³⁹ Some 41 percent of non-White youth and only six percent of White teenagers live in poverty areas of metropolitan areas.⁴⁰ Cities like East Los Angeles, Detroit, Miami, New York, and Chicago, have minority youth unemployment rates averaging 30 to 40 percent. Such minority youth face major barriers to suburban employment due to the lack of transportation and/or costs of commuting. Also, the logic behind traveling long distances to work for less than the minimum wage is dubious at best. Thus, a youth differential probably would benefit largely White, not minority, youth.

A critical concern remains racial and ethnic discrimination, which considerably exacerbates high youth unemployment. The Vice President's Task Force on Youth Employment found that about half the difference in employment

status between White and Black youth cannot be explained by differences in personal characteristics.⁴¹ The Equal Employment Opportunity Commission (EEOC) has amply documented the overwhelming evidence of racially motivated job discrimination. Thus, should jobs be created which are accessible to minority youth, without precise federal targeting and strict penalty and enforcement provisions, a youth differential would leave minority youth vulnerable to job discrimination. Employers could "pick and choose" along racial lines. Further, a youth differential would pit minority youth with a history of deficient education and employment skills against better-prepared White youth. Hispanic youth in particular share this fear, since they are least educationally equipped of all teenage groups. Among Hispanics, two of every five youth have not completed high school as opposed to one out of every seven White youth.⁴² So long as there continues to be far more youth than there are jobs, there is no assurance of major gains in job opportunities for Hispanic, Black, or other minority youth under a subminimum wage. Thus, youth differential job creation may well prove an elusive benefit, especially for minority youth.

3. Substitution Effects

In assessing a youth differential, the substitution issue is a critical concern. There are two forms of substitution: substitution of teenagers for other teenagers, and substitution of teenagers for adults. As envisioned under the proposed youth differential bills, teenager for teenager substitution occurs when employers hire youth 16-19, and then fire them sometime prior to the day they become eligible for the full minimum wage (after six months in most of the proposed legislation). Employers then hire additional youth to replace those let go -- in effect a revolving door. Youth for adult substitution occurs when adults are fired to hire cheaper subminimum

wage youth, and/or when the employer hires a youth at the subminimum wage rather than an adult at the full minimum wage.

Proponents maintain that this would not occur -- business would find it self-defeating to hire and then train youth, simply to fire them after six months. Senator Hatch states that anyone believing substitution would occur "reflects unsubstantiated pessimism"⁴³ in business intentions. Robert Bradford of the National Restaurant Association has testified that retention of employees is a top priority for any business, and that high employee turnover is unprofitable and detrimental to business efficiency.⁴⁴

Despite such assertions, however, existing facts give cause for serious concerns. First, labor-intensive industries already experience a high turnover rate. The fast-food businesses has a 30 percent annual turnover rate, yet this industry has witnessed a steady upward growth over the years (since 1970, an average of 16 percent dollar volume increase), so labor turnover apparently is not a major hindrance to expansion.⁴⁵ Many youth jobs require little skill training or experience. So hiring and firing youth to reach and maintain a substantial reduction in labor costs is a real possibility. Further, past business practice indicates that given the opportunity to capitalize on lower labor costs for increased profit, some labor-intensive industries would abuse a youth differential.⁴⁶

Though there is more empirical evidence on adult substitution, the results are ambiguous. The M/SC examined several frequently cited studies in its analysis of adult substitution. One, by Alan Fisher (1975), concluded that a 15 percent youth differential would result in "trade-off" of about 500,000 adult jobs lost to establish 800,000 to 900,000 youth jobs. The Commission considered this study to be based upon data which are "conjectural."⁴⁷ The Commission also reviewed Daniel Hamermesh's study, which says there would be only modest substitution of teenagers for adult

workers. The Commission states obliquely that such assumptions do not follow precisely from these data.⁴⁸ Several economists have expressed views on adult substitution which seem to contradict their beliefs in the value of a youth differential. Dr. June O'Neill, Director of Policy Research at the Urban Institute, testified that substitution was a factor to be weighed in considering a youth subminimum wage, since "...a youth differential could adversely affect the employment of low-productivity adults. The possible size of this adverse affect is not known."⁴⁹

Compounding the problem is the fact that adult substitution can be analyzed two ways — from a purely theoretical standpoint, which allows any employer to hire any teenager at a given subminimum wage, and from the proposed legislation, which has constraints, such as a six-month subminimum pay period and penalty provisions. Generally, the Commission stated that time-period differentials would probably be less effective than unrestricted ones in creating jobs, but would cause less displacement of adults.⁵⁰

Assuming that some substitution would occur, what jobs and which adults would be most subject to such substitution? The evidence points to those adults who currently hold minimum wage jobs. During the second quarter of 1980, teenagers 16-19 were 31 percent of all minimum wage workers.⁵¹ Adults over 20 comprised 69 percent. Particularly vulnerable to displacement are those adults ages 20 to 24 who compose the next largest minimum wage population, at 17 percent. This group would feel displacement especially severely since many are young heads of households, often with dependent children, and are often poor; in 1978, over 20 percent of all household heads working at or below the minimum wage had incomes below the official poverty level.⁵² Additionally, certain population subgroups within this adult group are particularly vulnerable to substitution, some disproportionately so. Due

to their unique demographic characteristics a generally youthful population — mean age of 20 years, as opposed to 30 years for non-Hispanics — adult Hispanics are extremely susceptible to displacement, by non-Hispanic and Hispanic youth. DOL statistics reveal that, overall, both adults and teenage Hispanics are more concentrated than the total population in service and operative occupations paying at or just above the minimum wage.⁵³

Women are also especially threatened, since nearly two-thirds of workers earning the minimum wage or less are women. Just eight percent of employed men as compared with 18 percent of working women earn the minimum wage or less; nearly half the women are 25-64 years of age, many of them heads of households.⁵⁴ Women also hold 34 percent of all part-time minimum wage jobs.⁵⁵ This means that adult women would be pitted against teenagers for subminimum wage positions. Since part-time workers are much more likely to be earning the minimum wage or less, Hispanic working women are particularly threatened by substitution, since they are considerably younger than their non-Hispanic counterparts, and have on the average at least one more child than non-Hispanic females. This is especially significant in light of the increased labor force participation of Hispanic women. From 1973 to 1977, the number of working adult Hispanic women grew by nearly one-third, far outpacing the increase for all other women.⁵⁶ This trend has continued unabated. Moreover, adult Hispanic women are largely concentrated in two of the lowest-paid occupations, clerical and ontransport operatives; in 1977, more than half of the all adult Hispanic women were employed in these two occupations.⁵⁷ These minimum wage job positions are also among the most likely entry-level jobs for youth paid the subminimum wage. In the second quarter of 1980, Hispanics, Blacks, and other minority adults were also

especially likely to earn minimum wage; almost one-fourth of all minimum wage earners were minorities and 17 percent were minority women.⁵⁸

Both House and Senate versions of the youth differential carry penalties against employers who engage in substitution. To be effective, such provisions would need enforcement mechanisms, a monitoring capability, regulations for proper administration, and inspectors to ensure compliance. Yet, political observers point to the current Administration's anti-regulatory stance, especially in terms of the business community, and question whether such strong enforcement is a real possibility. Observers note that the regulatory powers of several federal agencies are being significantly curtailed.⁵⁹ Based on these signals, opponents fear that a youth differential would lack adequate enforcement provisions.

This view is substantiated by past events. Only twice in the past 20 years have anti-substitution cases been instituted under the existing full-time subminimum program.⁶⁰ Concerning a youth differential, the MWSA states, "prohibitions against substitution are likely to be largely ineffective...or difficult to enforce."⁶¹ Even should employers be fined, the penalties might simply be absorbed by the offender; youth differential profits might more than compensate the business. Currently, the restrictions within the full-time student program are non-punitive; violators cannot be prosecuted by class-action suits or deterred by the threat of double or triple damages if found guilty. Given the large number of teenagers who would be involved in a youth differential were enacted, an employer might easily abuse the program, while avoiding multiple penalties.

4. Legal and Constitutional Issues

A major point of contention in the subminimum wage debate is its implications regarding Constitutional protections. Some legalist opponents of

a youth differential believe that, as introduced, the bills not only run counter to the legislative intent of the FLSA, but also violate the due process and equal protection clauses of the Constitution.

While it will take considerable effort to determine the constitutionality of any youth differential bill, several issues can be raised. The long-established student minimum wage (1961) might seemingly give legitimacy to a comprehensive subminimum, but in fact it does not, since the full-time student is in a learner category, designed for apprentices. The many other exemptions to the FLSA are based on similar narrow conditions. The broad qualitative difference between such exemptions and a comprehensive youth differential is the underlying generalization that because one is a teenager, the work performed is worth less than that of others performing the same job. In light of the wording in the Equal Pay Act of 1963, it seems clear that the legislative intent of Congress was to affect minimum wage coverage positively, rather than negatively, by mandating equal pay for equal work. After three years of study, Minimum Wage Study Commission Chairman James O'Hara stated

...the payment of a subminimum wage to a particular age group is so at conflict with the basic purpose of the Act and the requirements of social justice that it ought to be rejected as a policy option even if we thought it would substantially reduce youth unemployment.⁶²

Opponents assert that this arbitrary and discriminatory delineation of a youth wage rate becomes even less justifiable when weighed alongside the many governmental findings documenting that racial and ethnic discrimination is a root cause and a major factor in minority youth unemployment. Moreover, many youth, by the age of 18, use their income not for "pocket change" but for basic needs such as family and personal support or college tuition. To state that the work they perform is less valuable solely due to their age violates the principle of equal pay for equal work. In essence, a youth differential-

would create an extensive subclass of teenage workers, marked by their lower wage rate.

In addition, civil rights lawyers note, long-term implications need to be considered. A youth differential could open the door to further legislated discrimination against selected groups, purportedly to "aid" them as well. If youth can be "helped," then additional "opportunities" can be enacted to benefit Blacks, Hispanics, and others. A youth differential, they believe, would establish a dangerous legal precedent, difficult to overcome.

Moreover, the minimum wage is important because it protects unskilled workers who are without union representation from undue exploitation, giving them bargaining power they would not otherwise have. The minimum wage was created to prevent wages from being driven below subsistence levels; it continues in that function today, particularly for retail trade and food service workers. To enact a comprehensive youth differential, say labor leaders, means potential discrimination against low-income workers, with dangerous long-term legal and economic implications.

5. Economic Issues

There are several other economic arguments which arise within the context of a youth differential. Continued inflation has eroded the real value of the minimum wage. In 1967, the minimum wage was \$1.40 an hour, the current minimum wage of \$3.35 per hour is worth only \$1.29 in 1967 dollars.⁶³ After adjustment for inflation, the minimum wage has only doubled in real value since 1938, while the minimum wage itself has multiplied many times over. Tables 3 summarizes this relationship.

Table 3
Value of the Minimum Wage

Year	Minimum Wage	Value in Constant Dollars
1938	\$0.25	\$0.25
1939	0.30	0.30
1945	0.40	0.31
1950	0.75	0.45
1956	1.00	0.52
1961	1.15	0.54
1963	1.25	0.57
1967	1.40	0.60
1968	1.60	0.66
1974	2.00	0.58
1975	2.10	0.57
1976	2.30	0.58
1978	2.65	0.59
1979	2.90	0.59
1980	3.10	0.56
1981	3.35	0.57

Source: James W. Singer, "A Subminimum Wage - Jobs for Youths or a Break for their Employers?" National Journal, Vol. 13, No. 4, January 24, 1981, p.146.

A full-time minimum wage worker now earns \$6,968 a year, about \$500 less than the federal poverty level for a family of four, and 43 percent of minimum wage earners are members of families that have an annual income of less than \$10,000 a year.⁶⁴ In terms of purchasing power and real dollar value, then, a 25 percent subminimum cut would further reduce the already weakened state of the minimum wage, especially in inner-city areas, where large numbers of low-wage earners live and work. If substitution of adults by teenagers were to take place, local purchasing power would drop accordingly, further eroding the economic base of the inner cities. A youth differential could have debilitating economic effects because it would reduce the demand for goods and services by placing less disposable income in the pockets of millions of

low-income workers who earn the minimum wage. Economists note lower wages create a decrease in purchasing power in the community, forcing employers to produce less and hire fewer workers. This cycle was repeatedly enacted in large cities during the Great Deparession; wages fell so low the aggregate level of demand plummeted as well, which created a negative economic ripple effect throughout the community. Already economically distressed areas like inner-city barrios and ghettos can ill afford a loss of either services or jobs.

Further, youth are not any less susceptible to inflation than adults; except for the rare student discount (applicable only to in-school youth), teenagers are as vulnerable to the economy as anyone else. A youth differential would force a teenager to meet inflation and rising costs with 25 percent less in his or pocket. Many teenagers are male or female heads of households who are supporting children, while others are using the income to supplement low parental wages or save for schooling. A youth differential, coupled with possible substitution after six months, would lower wages for teenagers, who can least afford it. Hispanic youth in particular illustrate this scenario. Hispanic youth are more likely than Blacks or Whites to live in families with incomes under \$10,000.⁶⁵ In 1979, 24 percent of all Hispanic youth aged 18-21 were living independently of their families, and 41 percent in the same age group were married and/or had children; Hispanic youth aged 18-21 were in fact most likely of all groups to have established their own family.⁶⁶ Clearly, a youth differential, coupled with steady inflation and the substantial financial burdens entailed in family support, could further erode disposable income of Hispanic teenagers and young adults.

A youth differential may serve not as an "opportunity" or "incentive," but as a disincentive to work. Over the years, the minimum wage has served.

to protect societal work values by striving to make work more lucrative than dependence. A Gallup Poll taken in February 1981 found that almost 60 percent of youth aged 18-24 (the poll did not survey teenagers 16-18) opposed a youth differential and nearly 70 percent of Black respondents were against a subminimum wage.⁶⁷ If youth do not view lower wages as an opportunity for employment, a shift to income support systems like welfare could occur. In addition, if the real value of the minimum wage falls, or a 25 percent subminimum is enacted having the same effect, teenage workers will become eligible for more government social programs. Thus costs may increase for such programs as AFDC, food stamps, and health care. Without a strong wage floor, the scales become tipped against work and favor dependence on increasingly more expensive welfare programs. A subminimum wage could result in increased unemployment as these youth drop out of the labor market, spurred by the realization that the income gained from welfare exceeds the rewards obtained from work.

An economic argument of subminimum wage proponents is that a youth differential would give teenagers the opportunity to learn skills and receive training, making them more productive and valuable, while compensating the employer for the cost of their training. Hence in six months, they are "worth" the full minimum wage. Senator Hatch and other proponents have contended that since minimum wage jobs are dead-end, a youth differential would provide the incentive to employers to provide more training to teenagers. However, the MWSOC finds the evidence mixed as to whether a youth differential would affect training. By definition, minimum wage jobs are marginal, situated in industries where minimal training is offered and minimal skills are required. Both business and labor agree that it does not take six months to learn how to cook and turn a hamburger, or ring up a purchase in a

retail store, and it is reasonable to assume considerably less time is also needed for many of the other jobs currently paying the minimum wage. It is similarly doubtful that the jobs supposedly recreated by a youth differential (such as movie usher and grocery store bagger) will require six months of training. The nature of these jobs offers no persuasive evidence that a youth differential would spur employers to increase training for relatively simple jobs, or that a differential is needed to compensate employers for negligible training costs during the employee's initial employment period. However, it is possible that the subminimum wage will encourage employers to hire youth whose lack of job experience and/or poor work habits make them unable to qualify for jobs at the minimum wage. It is this possibility which leads proponents to believe that the subminimum wage will benefit minority youth. The employer's investment in a youth viewed as not initially "worth" the minimum wage might be made possible given the incentive of a subminimum wage. The training provided would be that required to enable such youth to perform adequately and therefore be able after six months to compete for a regular job (at the minimum wage or above).

6. Demographic Considerations

One additional factor needs to be considered within the context of a youth differential. The 20-year push for a subminimum wage reflects recognition that the youth population has grown tremendously and requires jobs. The "baby boom" of the 1950s increased the number of young people 16-24 by 80 percent between 1962 and 1978. In 1977 the youth population peaked at 17.0 million.⁶⁸ This explosion of teenagers bulged the labor market and increased the supply of youth, but did little or nothing for demand. The 1970s and 1980s, however, are showing a sharp drop in the birth rate, as

efforts at zero population growth, changing attitudes towards family size, and economic conditions all contribute to a decline in the birth rate.

The Department of Labor predicts that by 1985 the U.S. may well experience a shortage of youth for jobs in entry-level industries.⁶⁹ This has serious implications for a youth differential. If large numbers of teenagers have caused an over-supply in the labor market, contributing to unemployment, then it follows that decreasing numbers of teenagers will lower youth unemployment for the same reason. Thus, the rationale for a youth differential may well become moot in the 1980s. While the smaller youth population will not of itself solve youth joblessness, it may well ameliorate the problem enough to permit counter-measures other than the subminimum wage to be implemented with a greater chance of success.

Anticipated decreases in the youth unemployment rate may not be applicable to Hispanics. As a result of a high birth rate, a steady influx of youthful immigrants (primarily Mexican Americans), and the concurrently low birthrate of non-Hispanics, Hispanics are quite young as a population. Currently, the mean age for Hispanics is just under 21 years, among non-Hispanics it is 30 years.⁷⁰ From 1970 to 1980, the Hispanic population in the U.S. grew by 61 percent, while the number of Blacks increased 17 percent.⁷¹ This sharp rate of growth is expected to continue, and may result in Hispanics becoming the largest minority by the year 2000. These demographic characteristics raise grave concerns among Hispanics, particularly youth employment specialists, since enactment of a youth differential would have a disproportionate impact on this population. Clearly, then, Hispanics have a special stake in a youth differential.

IV. EXISTING YOUTH DIFFERENTIAL PROGRAMS AND THEIR IMPLICATIONS

A. Full-Time Students Certification Program

Most discussions concerning the youth differential neglect mention, or do not adequately consider, the fact that a subminimum wage program already exists for a segment of the labor force: the Full-Time Student Certification Program (FTS), and the Targeted Jobs Tax Credit Program.

The Department of Labor (DOL) operates a program under which employers can pay full-time high school and college students 85 percent of the minimum wage. Full-Time Student Certification Program, it was established in 1961 by Congress as an amendment to the FLSA. Initially, it permitted retail and service establishments to pay part-time students 85 percent of the minimum wage. The 1966 amendments to the FLSA were further revised to permit full-time student employment in retail and service industries as well as in agriculture. The 1974 amendments expanded the program to include colleges and universities, and the procedures for employer certification were made quite simple; essentially all that is required is filling out a DOL form.

According to DOL, in fiscal year 1980 about 28,400 certificates were issued to establishments employing approximately 495,000 students. Of these some 273,000 or 75 percent, were student workers colleges and universities.⁷² Other major employers were fast-food and drug chains and retail department stores.

Does the FTS have implications for a comprehensive youth differential? While FTS is considered too limited a model to empirically predict the effects of a comprehensive youth differential, enough evidence exists to draw some general conclusions concerning the program. To begin with fewer than six percent of all student workers have been enrolled in the program.⁷³ This suggests an aggregate low level of interest by employers and potential

student workers alike. Further, evidence shows that those employers who did use the program filled only about half of the total hours available to them under FTS. When questioned by DOL, 30 percent of the employers stated they were already fully staffed, 20 percent could not find youth to work at the lower wage, and 20 percent had let go employed youth and had not rehired.⁷⁴ Such low utilization rates bode ill for an expanded youth differential; if employers would not hire in-school youth, including college students, in great numbers, what chance would the hardcore unemployed have, especially inner-city youth? Moreover, FTS underserves minority youth since 75 percent of those employed in the program are college students who work at colleges and universities.

With each amendment to the FLSA since 1961, certification procedures have been streamlined to the point where only one-fifth of surveyed employers stated governmental regulations were bothersome. Yet program utilization has remained modest. While it might be argued that a 75 percent subminimum rather than an 85 percent rate would provide a greater incentive, this considers only the demand question; the supply of youth willing to work for even less might not be large, as polls and studies have indicated. Thus FTS has enjoyed modest success but offers limited lessons for a full-scale youth differential.

B. Targeted Jobs Tax Credit

Another program in effect which seeks to lower youth unemployment as one of its goals is the Targeted Jobs Tax Credit (TJTC) of 1978. The purpose of the legislation is to increase private sector employment of certain targeted groups, nine in all; recipients of Supplemental Security Income, handicapped veterans, economically disadvantaged Vietnam veterans, economically disadvantaged youth 18-24, certain economically disadvantaged ex-convicts, certain recipients of state or local welfare, economically disadvantaged

cooperative education youth 16-19, Work Incentive (WIN) registrants, and Public Service Employers (PSE) involuntarily laid-off.

TJTC operates using a "voucher" that is given to an eligible participant by an authorized public agency. These agencies assist participants in their job search and if they are hired, provide the necessary documentations to the employer for tax purposes.

TJTC permits employers to claim tax credits on 50 percent of first year participant wages up to \$6,000 and 25 percent of second year wages up to \$6,000, or a total credit up to \$3,000 and \$1,000 per year respectively. Savings to an employer depend upon his tax bracket. To date, over 500,000 people have been employed in TJTC, and youth under the two categories account for over 80 percent of the certification issued.⁷⁵ Although the Reagan Administration stated it was against reauthorization, a coalition of business groups, minority organizations, labor interests, and Congresspersons were successful in extending the program until December 31, 1982.

1. Problems with TJTC

According to DOL, the Mershon Center, and the General Accounting Office (GAO), the TJTC has had a number of problems. Employers have responded only weakly to the tax credit incentive to hire targeted groups. As the Mershon Center stated, businesses "do not appear to be rushing of their own volition to use TJTC."⁷⁶ While the overall program goals were met, it is estimated that nearly 70 percent of the certification have been retroactive and not new hires.

Another program limitation has been the size of the tax credit. The Mershon Center indicates that many more employers would be willing to favorably alter their hiring practices to employ more of the target groups if the credit were significantly larger. Also, while TJTC requires a modest

amount of employer paperwork, it is more the perception of red-tape than any actual paperwork which causes an employer to conclude there are "hidden costs" to TJTC, thus lowering participation. Problems in implementation of TJTC by the administering agencies have also lowered program effectiveness. The Mershon Center has stated that implementation has been "lackadaisical."⁷⁷ The multiplicity of program agencies has resulted in uncoordinated implementation and blurred responsibility. Another factor discovered was a sense of skepticism by agency operators at the field level, caused by inadequate funding and the lack of strong staff incentives to place participants. However, in instances where aggressive marketing of TJTC has occurred, noticeable differences in employer participation rates have been encountered. Other concerns include the need to reconsider target populations, as well as the desirability of consolidation of all tax credits into a single program.

2. Positive Aspects of TJTC

Despite the foregoing problems within the TJTC, there are several compelling arguments to be made in its favor, particularly within the context of a youth differential. Perhaps most important, a tax credit encourages employers to hire certain workers without lowering the wages they actually receive, unlike a youth differential. In view of concerns regarding the negative impact of a youth differential on purchasing power and available disposable income, particularly for low-income minority youth, this is a critical consideration. Moreover, while a comprehensive subminimum rate reduces wages for all, the targeting features of a tax credit permit selective utilization of the program. A tax credit allows flexibility. Such selectivity does not exist within the proposed youth differential legislation.

In addition, use of a tax credit can increase employment. As TJTC has proven, jobs were created for the target population; if retroactive certifications are excluded, TJTC still produced over 200,000 new hires in its first 19 months of operation, 55,000 of which were in the more difficult to place categories other than cooperative education students.⁷⁸ Indeed, 70 percent of TJTC vouchers and nearly 90 percent of TJTC certifications (those actually hired) have been in the youth target groups -- economically disadvantaged youth and cooperative education students.⁷⁹ Moreover, TJTC has shown it could have a significant impact on those industries which would be the most likely targets of a youth differential, namely, retail and service trades. The Mershon Center states, "Wages for TJTC hires have tended to be less than \$4 per hour. The jobs have been drawn largely from service industries, particularly fast-food restaurants and hotels, and from light manufacturing firms."⁸⁰ Thus, while the aggregate number of past new job hires was low, the Mershon Center attributed this more to program implementation than non-adjustable flaws in program design. Some of the main defects have since been corrected by legislation passed in 1981 which strengthened and upgraded TJTC according to the recommendations of the Mershon Center and other agencies. Youth differential opponents maintain that the newly revitalized TJTC could well affect youth unemployment at least as positively as, and perhaps to a much greater extent than a comprehensive youth subminimum wage.

There are several other favorable elements of a tax credit. One is that a credit directly aids a business by providing dollars for reinvestment back into operations. This spurs expansion, and business growth creates job demand. Another is that it fosters job retention of employees. While workers can of course be let go at any time, a tax credit encourages employers to keep

workers during the critical first two years, because the tax savings can be taken only as long as the employee remains hired. Moreover, if this incentive may spur additional job training to facilitate that retention. Supporters note this provides a more compelling argument for increased teenage job training than does the proposed youth differential.

In sum, many argue that ultimately, a tax credit is more equitable to both employers and employees than a youth differential. It is graduated downwards over time, thus reflecting more accurately, particularly for youth, the faster turnover rates in entry-level jobs. It is fairer to youth because it does not force them to work for less, as does a youth differential. It is fairer to low-income adults in that they become substantially less threatened by substitution, and it still gives a rather generous subsidy to business in return for hiring youth.

V. CONCLUSIONS

As the discussion of this paper clearly indicates, the question of a youth differential or subminimum wage remains extremely complex. It is impossible to judge fully the potential impact of a subminimum wage, in terms of job creation, substitution, economic impacts and differential effects on particular subgroups, in the absence of actual experience. However, sufficient indications exist of the danger of negative impacts on low-income and minority teenagers, and on adults working at the minimum wage level, to cause groups concerned with youth employment and civil rights to oppose what could be an extremely damaging national experiment. The National Council of La Raza believes that the present proposals for a subminimum wage are likely to reduce job opportunities for Hispanic adults through substitution, as well as to reduce the economic status of Hispanic youth.

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