MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 27, 1987

The fifth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on January 27, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 169: Senator Thomas Keating, Senate District 44, sponsor of the bill, stated SB 169 deals with the comparable worth statute and is very short because it is a repealer and the bill itself does not indicate what is being repealed. He distributed a copy of the codes, which is attached as Exhibit 1. Senator Keating read the language of Section 2-18-208, MCA and Section 2-18-209 MCA, which deals with the comparable worth program. He also distributed to the committee, copies of Section 2-18-203 MCA, which deals with the other classification system. Senator Keating explained we are dealing with two classification systems, the state classification system and how it is effected or modified by the requirements under the comparable worth plan. He explained this is not a gender issue and the reason for this bill is the difference in the interpretation between equal pay for equal work and equal pay for comparable worth. Senator Keating stated equal opportunity is the federal requirement that everyone has an opportunity to work in the marketplace regardless of gender, and he subscribes to that. Equal opportunity allows male and females in the same job to receive the same pay, but comparable worth would establish an equal pay for a comparable job without regard to gender. Senator Keating stated that our pay system, or the classification system we had before the comparable worth plan was introduced in 1983, deals with equal work for equal pay. This made every effort for equality in the job so that one gender didn't have a weighted average against the other . Our pay system permits this equal opportunity, and what we are dealing with is comparable worth, which is a comparison between jobs, regardless who is in the job. It is

trying to determine that the value of one job is the same as, or different from, the value of another job and on that basis the pay scale for those jobs are to be weighed for those reasons. In the past, since the comparable worth plan was passed and written into the statutes, Senator Keating has read a number of studies and reports dealing with comparable worth. Senator Keating stated these studies have showed that the state of Montana is in a dangerous mode with our statutes because we are opening the door to judicial intrepretation of comparable worth, which may work against us in what we are trying to do in developing equality. He asked the committee to look at Section 2-18-208, MCA (see Exhibit 1), and stated this section states the Department of Administration is directed to work for a goal of establishing a standard of equal pay for comparable worth and it does not say equal pay for equal work. Senator Keating stated the equal pay for comparable worth will be reached in this manner; 1) by eliminating in the classifications of positions the use of judgments and factors that contain inherent bias based on gender; and 2) comparing in the classification of positions the factors of determining job worth across occupational groups whenever the groups are dominated by males or females. Senator Keating continued that by trying to work in the gender problem with comparable worth, the intent is held to be equality between gender is what we are striving for, but the way it is written, it could be interpreted to mean these job classifications must be established without regard to gender. This would then negate the entire idea of equal pay for equal worth. Senator Keating believes if the comparable worth section of our codes were challenged in our courts, it could lead to a destruction of what we are trying to do in having equal pay for equal work. He stated there are only 4 states that have passed a comparable worth law. One of these states is Minnesota, and it has spent $21 million in one biennium to adjust their comparable worth program; however, it has nothing to do with the equality of pay between males and females. Senator Keating emphasized this would not deal with a gender situation. What this is trying to do is that pay would be negated by judicial interpretation of comparable worth. Senator Keating would like to reserve the rest of his testimony for closing.

PROPONENTS: Mr. Jack E. Traxler, representing the Eagle's Forum and the Missoula County Freeholders, supports this bill. Mr. Traxler stated that the state of Washington, in the last three years, the studies for comparable worth alone, have cost over $4 million, in trying to find a solution.

Mr. Traxler explained that the state of Washington has only 1,000 job classifications that are firm, and they are on a ten year program that will go until 1992. They estimate over $1/2 billion will be spent before this study is completed. He does not believe the state of Montana can afford this kind of bill. He also stated gender is not a part of this bill.

Mr. Lauretta Schktika, representing Eagle Forum from Bozeman, Montana, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 2.

Mrs. Mary E. Doubek, representing the Eagle Forum, the Pioneer's Chapter, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 3.

Mrs. Beverly Glueckert, representing herself and her family, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 4.

Mrs. Dorothy Traxler, representing herself, from Missoula, Montana, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 5.

Mrs. Dale Johnson, representing herself, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 6.

OPPONENTS: Senator Pat Regan, Senate District 47, chief sponsor of SB 425 which was passed in 1983 by a vote of 96 to 4, rose in opposition to this bill. Senator Regan stated you are being asked to repeal this bill on the basis that if you don't, you are going to face horrendous lawsuits. Senator Regan stated that by the continuation of this bill and by the continuance study and work by the Department of Administration, you are avoiding the chance of lawsuits. Senator Regan has asked Ms. Laurie Ekanger, head of the Department of Administration, to be a resource person for questions.

Ms. Debra Jones, representing the Women's Lobbyist Fund, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 7.

Mr. Tom Schneider, representing the Montana Public Employees' Association, gave testimony in opposition of this bill. Mr. Schneider stated they do not deal with the free market system, they deal with a state classification program which excludes them as a union to be able to

deal with this at the bargaining table. He said they previously were able to negotiate classification and grade levels; however, they cannot do that any longer. He explained they deal with this at the local level without a law, and they can deal with it because they do not have cumbersome classification systems and because they represent everyone who works there. Mr. Schneider feels without this piece of legislation this subject will be lost.

Mr. Jim Murray, representing the Montana State AFL-CIO, gave testimony in opposition of this bill. A copy of his testimony is attached as Exhibit 8.

Ms. Virginia A. Bryan, representing the Women's Lobbyist Fund, gave testimony in opposition of this bill. A copy of her testimony is attached as Exhibit 9. Ms. Bryan gave further oral testimony concerning the Washington experience. Ms. Bryan stated the judge who ruled on the Washington case was Judge Tanner, and basically what happened in Washington was that the state identified they had a comparable worth problem but did nothing to rectify it until litigation started. The state of Washington suggested a ten year plan which Judge Tanner found to be in bad faith and it was under those facts that litigation commenced. Ms. Bryan pointed out that Judge Tanner's opinion has been the subject of controversy. Ms. Bryan said if the state of Washington had acted in good faith, the result would have been different, and that the state of Montana has the opportunity to act in good faith now. She feels the state of Montana can achieve a solution by recognizing there are fiscal problems in our state and to repeal this legislation would put the state in greater danger because as of now we can state we are actively seeking a solution to the problem.

Ms. R. Nadiean Jensen, representing the Montana Council #9 American Federation of State Counties Municipal Employees, AFL-CIO, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 10.

Ms. Eileen Robbins, representing the Montana Nurses' Association, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 11.

Ms. Kathy Karp, representing the Montana League of Women Voters, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 12.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 169:
Senator Blaylock asked Ms. Laurie Ekanger, Department of Administration, Personnel Division, if in the 4 years this law has been in effect, what effect it has had, and

if it was terminated, what the results would be. Ms. Ekanger stated the state of Montana essentially has a comparable worth classification system. In 1972 legislation was passed that set up a classification plan which assigns grade levels, which are salary levels, based on how they measure up. Ms. Ekanger stated when this law was passed, we had started on a project to improve our methods of assigning salaries to state government jobs and they were modeling themselves after the federal government classification system, which has several different ways to assign wages per job, so it is not a comparable worth system.

Senator Blaylock asked Ms. Ekanger what would happen if this legislation were terminated. She stated her department would continue to make improvements to the classification system, but they would not have the law to make sure it was consistent to a comparable worth system.

Senator Gage asked Ms. Virginia A. Bryan about the Washington state problem and if it was actually considered to be a sex bias problem. Ms. Bryan stated if you identify you have a comparable worth problem, then you do have a sex bias problem within the classification system. Ms. Bryan continued that there was a policy determination that they should eliminate the sex bias. They went ahead with professional studies to look at the Washington state classification plan and determined they did have wage bias or gender bias. Ms. Bryan stated they recognized a problem within the state classification system and they did not act to rectify that problem over a eight year period, and no remedial action was taken, which resulted in the litigation. Senator Gage asked Ms. Bryan if she was saying what Judge Tanner found, or are you saying what you think he said. Ms. Bryan replied her interpretation is what she came up with after reading the case and that Judge Tanner found that comparable worth and the existance of gender bias can constitute sex discrimination and prior to his ruling, that ruling had never been made by a federal district court judge.

Senator Manning asked Ms. Ekanger if in the event this bill is successful, there is nothing in the law that would prevent sex discrimination. Ms. Ekanger replied there is federal legislation that requires equal pay for equal work and so it would be illegal.

Senator Haffey asked Mr. Tom Schneider about the free market system where the supply and demand theory in rural areas is high and the wages offered are low; you would expect the opposite in urban areas where the demand

is high and the wages are also high. Senator Haffey continued by asking Mr. Schneider about what he stated concerning the free market, that it is not at play in state employment and there is a classification system. Mr. Schneider replied that in the free market, we as representatives would have the right to negotiate things like comparable worth and the factors that make it up; but under the state system the steps and grades are not negotiable, the state does the classification system based on areas that do not have comparable worth, therefore, they are determining factors, and the determining factors on wage surveys are void in that area.

Senator Haffey asked if Mr. Schneider's conclusion was that without these two parts of state law, you as bargaining agents, and the state as an employer is unable to address the worth in the free market in this state system. Mr. Schneider replied that was correct; however, they could still do it but without the law to back them up it becomes a question if they really have the right to do it.

Senator Keating asked Mr. Schneider if all state employees are on the state classification plan. Mr. Schneider replied that no, the only ones that are not included are the political employees, those appointed by the governor.

Senator Keating asked Ms. Laurie Ekanger if all state employees are on the state classification plan. Ms. Ekanger replied 92% of the state employees are on the state classification plan, and there are some other plans where salaries are collectively bargained - the blue collar plan, the liquor occupation plan, and the teachers' occupation plan. Senator Keating asked Ms. Ekanger if the comparable worth law had not been passed, the classification plan would have done pretty much what it has done already. Ms. Ekanger replied that as they had discussed, there has been quite a bit of time used to improve their methods and they have not, as of yet, coverted to the new methodology; however, without the comparable worth law passed, they would have spent all their time going to a system that would not be in compliance with comparable worth and they would be lobbying to convert something that was not comparable worth. Senator Keating asked if under the classification plan, we have been working to lessen the disparity between the male and female classes, and there is only a 23% difference, does that equate to $0.23 on the dollar. Ms. Ekanger replied that it does equate to 23 cents on the dollar, and the biggest problem on the wage gap is that women tend to be segregated in the lower class jobs.

Senator Keating closed by stating we have heard a lot about comparable worth in other states and the many things that have happened over the confusion about comparable worth. He stated in the state of Washington's case, concerning comparable worth with Judge Tanner presiding, he addressed the sex bias problem, not the comparable worth problem, and it stated that, "While state legislature may have discretion to enact a comparable worth plan if it chooses to do so, Title 7 does not obligate it to eliminate economic inequality that it did not create." Senator Keating interprets this to mean that Title 7 doesn't force comparable worth for a way of equality of pay for gender. Senator Keating referred to a report which is provided every two years. Under the law on page 12, under the summary, it states that job segregation which is the dominence of certain types of jobs by either male or female, job segregation is the major reason for the existance of a wage gap. How much of this segregation regults from differences of skill levels, opportunities or choices cannot be measured. Comparable worth cannot correct job segregation. Senator Keating stated that comparable wroth cannot correct job segregation. He read a statement from another state considering comparable worth, "one of the amendments to comparable worth would suggest that the authors separate the white collar workers and blue collar workers in making the evaluation and in making the study. Integrating blue collar workers with white collar workers will always be an injustice to the blue collar workers because of differences in adverse working conditions, risk, hours, and skill make it impossible to equate them fairly with white collar workers." Senator Keating stated that the argument that comparable worth is an equal pay for equal work or a method for an equality in gender as to equal pay does not appear to be valid, there is a classification plan in the law that does the job that everyone wants and brings about equality in pay between men and women. Senator Keating stated the comparable worth appendage we have is a danger to us because if we are challenged in the courts and the court rights the decision of comparable worth, we may not get what we want and we could end up with something that is costly.

Chairman Lynch closed the hearing on SB 169.

DISPOSITION OF SENATE BILL NO. 169: Senator Keating made a motion that SB 169 Do Pass. SB 169 was held in committee due to a 4-4 tie vote. (see attached roll call vote)

FURTHER DISCUSSION OF SENATE BILL NO. 34: Ms. Peg Hartman, Department of Labor and Industry, submitted an attachment for amendment to SB 34. A copy is attached as Exhibit 13.

Mr. Tom Gomez prepared the amendments and they were reviewed by the legal director and there was no problem in terms of the choice of language and the rule-making authority of the Department of Labor and Industry has extended the provisions of this act, and therefore, if there does seem to be a problem it could be taken care of under the existing authoritive procedure to adopt the rules. Senator Lynch asked Ms. Hartman what she would guess would be the significant impact of SB 34. Ms. Hartman replied the impact would be $9 million.

Senator Keating mentioned his personal corporation and the effects of this bill on his corporation. Senator Keating said if he is unemployed he cannot draw unemployment benefits, so he is paying unemployment benefits but is not eligible to draw.

Senator Lynch stated this bill does not seem to help the people who pay for the benefits but cannot receive their benefits. The 7% of the people covered do draw benefits and this means there are people eligible to use these benefits.

Senator Keating asked Ms. Hartman if there is a way to identify the people who fall into the same category as he does - the ones who cannot draw benefits. Ms. Hartman stated we could get the information; the problem is not that they are always ineligible, the question would be if they are self-employed, and the circumstances can change.

Senator Haffey asked Ms. Hartman if the lay people understand this portion of the law, and if Senator Keating just changed some paper work, could he then become eligible to receive these benefits and would this then make him one of the 7% to receive the benefits. Ms. Hartman replied it is not a matter of paper work, it is a matter of changing the employment relationship. Senator Haffey asked Ms. Hartman if Senator Keating could become eligible for benefits with a single person employee corporation.

Senator Keating said when he gives himself a paycheck, he pays social security and all required taxes. Ms. Hartman

directed the question to Mr. Chuck Hunter, Department of Labor and Industry, who stated it is possible to happen, but with a single individual it is more difficult. They do have people who are seasonal employees who are single employees and when their season ends, they can effectively lay themselves off and collect benefits.

Senator Gage stated this comes down to a fairness issue.

Senator Lynch's problem with this bill is that the employment fund is finally in the black, and this bill will put us in the red.

Senator Thayer views this as a fairness issue. He asked if Senator Keating did away with his corporation and operated as a sole proprietorship, then would he be eligible for benefits. Ms. Hartman replied that he would not pay any taxes.

Senator Haffey asked if Senator Keating made his son the president he would not be an employee in the corporation and he would no longer be self-employed in that he would be working for his son. Mr. Hunter replied that the officers of a corporation by law are considered employees, so a titled officer in the corporation is an employee.

Senator Keating asked if his son fired him, could he then draw benefits.

Senator Lynch stated he would not take action on this bill today.

ADJOURNMENT: There being no further business to come before the committee the hearing adjourned at 2:50 p.m.

SENATOR JOHN "J.D." LYNCH, CHAIRMAN

jr

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Jan. 27, 198

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X	*	
Richard Manning	X		*
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X	*	
Jack Haffey	X		
Jack Galt	X		

Each day attach to minutes.

DATE January 27, 1987

COMMITTEE ON Labor

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
R. Nadiean Jensen	AFSCME	SB 169		X
Mrs. Mary E. Doubek	myself & Eagle Forum Pioneer's Chapter	SB169	✓	
Debra Jones	Women's Lobbyist Fund	SB 169		X
Betty Johnson	Mt Eagle Forum & self	SP 169	✓	
Jessie Fisher	"	SP169	✓	
Leslie Keating	Billings, Mont	SB 169	✓	
Jo Huppaert	Billings	"		
[illegible]	Dept. of Admin.	SB169		
[illegible]	Bozeman Eagle Forum	SB 169	✓	
Eileen Fetters	Montana Nurses Assoc.			X
Claudia Clifford	United Food & Commercial Workers	SB169		X
Nina Drake	Dept. of Revenue	SB169		
Beverly Glueckert	myself & family	SB169	✓	
Kathy Karp	Mont League of Women Voters	SB169		X
Karen Larson	Capital City Eagle Forum	SB169	✓	
Virginia Bryan	Women's Lobbyist Fund	SB169		X
Diane Sands	Women's Lobbyist Fund	SB169		
Jack E. [illegible]	Missoula Co. Freeholders	SB 169	✓	
Mera Cahoon	Self	SB169	✓	
Robin Sutton	Montana Business & Prof Women BPW	SB 169		X
Pat Spurlin	Missoula Eagle Forum	SB169	✓	
Linda Hardy	Msla Eagle Forum	SB169	✓	
Karen Bailey	Msla. Eagle Forum	SB169	✓	
Lauretta Skekitka	Bozeman Eagle Forum	SB169	✓	
Jeanne Schott	MT BPW	SB169		X
Mary Spurlin	Msla Eagle Forum	SB169	✓	

DATE January 27, 1987

COMMITTEE ON Labor

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Dorothy Fraser	Missoula C. Eagle F.	169	✓	
Julie Wacker	self	169	✓	
Anne Brodsky	WLF	169		X
Pat Rapp	SD 47	169		X
Thomas Schneider	MPEA	169		X
Sydne Coglenn	self	169		X
Colleen Rippke	self	169		X
Jackie Arneden	Womens Lobbyist Fund	169		X
Linda Bunglin	self	169	✓	
Jim Murry	Mont. AFL-CIO	169		X

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date January 27, 1987 Bill No. SB 169 Time 2:30 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman		X
Gene Thayer, Vice Chairman	X	
Richard Manning		X
Thomas Keating	X	
Chet Blaylock		X
Delwyn Gage	X	
Jack Haffey		X
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: 4/4 tie held in committee

1985

1127 | [illegible]

NAME: [illegible] DATE: 1/22/87

ADDRESS: [illegible] Missoula, MT

PHONE: 1-251-[illegible]

REPRESENTING WHOM? [illegible]

APPEARING ON WHICH PROPOSAL: Senate Bill 169

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENTS: ______

[illegible signature]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Rev Mary E Gourlay DATE: 1/27/87

ADDRESS: 7645 N. Montana Ave - Helena

PHONE: 458-9525

REPRESENTING WHOM? Myself & Eagle Forum - Pioneer Chapter

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: I support this bill because I oppose Comparable Worth except where there is Equal pay for Unequal work.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? Y

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Debra Jones DATE: 1/27/87

ADDRESS: P.O. Box 1099

PHONE: 449-7917

REPRESENTING WHOM? Women's Lobbyist Fund

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Eileen Robbins DATE: 1/27/87

ADDRESS: 531 Spencer

PHONE: 493-0275

REPRESENTING WHOM? Montana Nurses Assoc

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: See attached testimony

& add If the "free" market value were truly the determing factor for registered nurses, RNS would be making much more than the usual $10/hr they do now, especially during nursing shortages. (We are on the brink of such a shortage now) However, although RNs are in high demand, Nurses are compensated based on the worth of the nursing profession --- at about the same rate as a person working in a job which requires only a high school education. Also, in rural Montana where nurses are in short supply, RN nurses make Less than in other areas where there is an abundance of nurses.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

2-18-202. Guidelines for classification. (1) In providing for the classification plan, the department shall group all positions in the state service into defined classes based on similarity of duties performed, responsibilities assumed, and complexity of work so that:

(a) similar qualifications of education, experience, knowledge, skill, and ability can be required of applicants for each position in the class;

(b) the same title can be used to identify each position in the class;

(c) similar pay may be provided under the same conditions with equity to each position within the class.

(2) A class may consist of only one position.

History: En. Sec. 4, Ch. 440, L. 1973; R.C.M. 1947, 59-906.

Cross-References

Classification — grievance, 2-18-1011 through 2-18-1013.

2-18-203. Review of positions — change in classification. (1) The department shall continuously review all positions on a regular basis and adjust classifications to reflect significant changes in duties and responsibilities. In the event adjustments are to be made to the classification specifications or criteria utilized for allocating positions in the classification specifications affecting employees within a bargaining unit, the department shall consult with the representative of the bargaining unit prior to implementation of the adjustments, except for blue-collar, teachers, and liquor store clerks classification plans, which shall remain mandatory negotiable items under the Collective Bargaining Act.

(2) Employees and employee organizations will be given the opportunity to appeal the allocation or reallocation of a position to a class. The grade assigned to a class is not an appealable subject under 2-18-1011 through 2-18-1013.

(3) The period of time for which retroactive pay for a classification appeal may be awarded under parts 1 through 3 of this chapter or under 2-18-1011 through 2-18-1013 may not extend beyond 30 days prior to the date the appeal was filed. This provision shall not affect a classification or position appeal already in process on April 26, 1977.

History: En. Sec. 5, Ch. 440, L. 1973; amd. Sec. 1, Ch. 166, L. 1975; amd. Sec. 1, Ch. 471, L. 1977; R.C.M. 1947, 59-907; amd. Sec. 1, Ch. 577, L. 1979; amd. Sec. 2, Ch. 421, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "the allocation or reallocation of a position to a class" in (2) for "any changes in classifications or positions"; added last sentence of (2) relating to grade assigned to class is not appealable; deleted "or position" after "retroactive pay for a classification" near the beginning of (3).

Cross-References

Change in classification — appeal, 28-18-1011.

2-18-204. Determination of number and classes of employees in each agency. (1) Based on documentation to be submitted by each agency, the department shall determine the classes of positions of employees of each agency or program thereof before the beginning of each fiscal year. At any time, upon request of the agency, the department may amend the classes of positions of employees in any agency or program thereof.

(2) Based on documentation to be submitted by each agency, the budget director shall determine the number of positions and employees (full-time

equivalents) executive bu upon the rec of positions thereof.

(3) This nations of th

History: En.

2-18-205 tions. An ag without the a

History: En. amd. Sec. 1, Ch.

2-18-206 and as direc current auth salaries or w

History: En.

2-18-207 wage of cla of positions

History: En. amd. Sec. 2, Ch.

2-18-208 in its contin schedules, w comparable by:

(1) elimi factors that

(2) comp ing job wo dominated b

History: En

Cross-Referer Human Righ

2-18-209 to the legis and the ex adhere to o department ments exist such report

History: E

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/27/27
BILL NO. SB 169

equivalents) of each agency or program thereof prior to preparation of the executive budget and before the beginning of each fiscal year. At any time, upon the request of the agency, the budget director may amend the number of positions or employees (full-time equivalents) in any agency or program thereof.

(3) This section does not limit legislative authority to amend the determinations of the department or the budget director.

History: En. Sec. 10, Ch. 440, L. 1973; amd. Sec. 2, Ch. 181, L. 1975; R.C.M. 1947, 59-909.

2-18-205. Department authorization for change in classes of positions. An agency may not change the classes of positions under its authority without the authorization of the department.

History: En. Sec. 12, Ch. 440, L. 1973; amd. Sec. 4, Ch. 181, L. 1975; R.C.M. 1947, 59-911; amd. Sec. 1, Ch. 468, L. 1979.

2-18-206. List of positions maintained. To facilitate state budgeting and as directed by the budget director, each agency shall maintain a list of current authorized positions, the number of positions in each class, and the salaries or wages being paid, appropriated, or proposed for each class.

History: En. Sec. 9, Ch. 440, L. 1973; amd. Sec. 1, Ch. 181, L. 1975; R.C.M. 1947, 59-908.

2-18-207. Department authorization for increase of salary or wage of class. An agency may not increase the salary or wage of any class of positions without authorization of the department.

History: En. Sec. 11, Ch. 440, L. 1973; amd. Sec. 3, Ch. 181, L. 1975; R.C.M. 1947, 59-910; amd. Sec. 2, Ch. 468, L. 1979.

2-18-208. Comparable worth. The department of administration shall, in its continuous efforts to enhance the current classification plan and pay schedules, work toward the goal of establishing a standard of equal pay for comparable worth. This standard for the classification plan shall be reached by:

(1) eliminating, in the classification of positions, the use of judgments and factors that contain inherent biases based on sex; and

(2) comparing, in the classification of positions, the factors for determining job worth across occupational groups whenever those groups are dominated by males or females.

History: En. Sec. 1, Ch. 310, L. 1983.

Cross-References

Human Rights Act, Title 49, ch. 2.

2-18-209. Status report. The department of administration shall report to the legislature the status of the study of the comparable worth standard and the extent to which Montana's classification plan and pay schedules adhere to or fall short of the standard of equal pay for comparable worth. The department shall make recommendations to the legislature as to what impediments exist to meeting this standard. The department shall continue to make such reports until the standard is met.

History: En. Sec. 2, Ch. 310, L. 1983.

SB 16
SENATE LABOR & EMPLOYM
EXHIBIT NO. 1
DATE 1/27/87

NAME: Lauretta Shekitka DATE: 1/27/87

ADDRESS: 1114 S 3RD Av, Bozeman 59715

PHONE: 586-7335

REPRESENTING WHOM? Eagle Forum

APPEARING ON WHICH PROPOSAL: Repeal of Comparable Worth

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Comparable worth depends on the assumption that jobs can be evaluated w/a reasonable degree of scientific precision & objectivity. A study done by the Center for the Study of American Business) shows that states that determine pay on the basis of comparable worth are arbitrary & meaningless. There are enormous variances in the relative "worth" of the same jobs in different states. An example: A secretary would be ranked first among 3 jobs in Washington State & Iowa, but last in Minn. & Vt. Vast discrepancies exist in the job scores for Minn Iowa & Vt. Even more flagrant differences are when comparing the scores of the same job across the United States.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO 2
DATE 1/27/87
BILL NO. SB 169

EDITORIAL COMMENTARY

BARRON'S

NOVEMBER 21, 1983

New Era in Pay Scales?

The Push for "Comparable Worth" Could Destroy the Job Market

THE LABOR market isn't nice. The "Help Wanted" ads just aren't fair. Bosses are unfeeling and insensitive to women's needs. They are not willing to pay people for being caring and concerned and skilled at interpersonal relationships. They are only willing to pay people for doing things that make money. They are not willing to pay high wages for jobs they can easily fill: pleasant jobs requiring little training that involve wearing clean clothes and working in friendly offices. They are only willing to pay high wages for jobs that are hard to fill: jobs that require years of skilled training or involve dirty or dangerous or physically exhausting work. They pay less money to women who prefer jobs as nurses or secretaries than to men who prefer jobs as engineers or mechanics. Bosses dare to defend this blatantly discriminatory behavior by claiming that something called "market forces" give them no choice. But that just goes to show that "market forces" are as mean and insensitive to humanistic values as bosses are, and are undoubtedly in violation of women's rights.

* * *

If this sounds like leftover babble from the Seventies, it should. Equal opportunity and equal pay for equal work have been law for two decades. From construction sites to Wall Street trading rooms, women have been moving into jobs that their mothers would never have believed—and are getting paid the rate for the job. The idea that women should not have to do equal work to get equal pay—that "feminine" jobs possess the same intrinsic worth as "masculine" jobs, and should receive the same rewards regardless of their economic value—sounds like the embarrassing ideological relic of some early utopian feminist sect, long since overtaken by events.

It isn't. It's called "comparable worth," and it's the hottest item on the feminist agenda. It has been endorsed as "the issue of the Eighties" by Mondale, Glenn and every other Democratic candidate scrambling to get into the good graces of the official spokespersons for the gender gap. It is being studied by nervous legislators across the country, who are privately hoping to buy it off without spending more of the taxpayers' money than they have to.

It also threatens (incredibly, like affirmative action before it) to become the law of the land through judicial decree, without statutory authority of any kind. Last week, a federal judge, who had flatly refused to hear any testimony on the market rates of pay for different jobs, handed down an order against the state of Washington for "discriminating" against women employees. The order, which the state is preparing to appeal, could force the taxpayers to come up with half a billion dollars in taxes to fund huge wage hikes and back-pay awards for state office workers, mostly women, who are paid less than mechanics and electricians, mostly men.

Similar suits and Equal Employment Federation of State, County and Municipal Employees, against the states of Connecticut, Wisconsin and Hawaii, the cities of Los Angeles, Chicago and Philadelphia, Nassau County on Long Island, and the school district of Reading, Pa.

Legally, the decision of the court is without precedent, though the U.S. Supreme Court in a 1981 decision (County of Washington v. Gunther) left the door open to claims of wage discrimination under Title VII of the 1964 Civil Rights Act even where "equal work" was not involved—without indicating how it might deal with such a claim. Politically, the practice of mau-mauing weak kneed public-sector bureaucrats for more money in the name of "equality" has plenty of precedent. (The Federal District Court judge in the Washington case, Judge Jack Tanner, is a former NAACP activist named to the bench by President Carter—as were a large number of the judges of the Ninth Circuit, which will be hearing the state's appeal.)

The city of San Jose, in California, became the first to try to buy off such demands, after a 1981 strike, by offering $1.4 million over two years to about 750 women in clerical jobs which were declared to be "undervalued" relative to men's jobs. A committee of municipal union representatives was designated to rank jobs according to a complicated point system, based on paper qualifications, training, human relations skills, problem-solving requirements, accountability and working conditions. A personnel consulting firm ran these through computer programs, which revealed—without reference to the supply of and demand for such labor—that librarians ought to be making as much money as chemists, and that telephone operators and secretaries should earn as much as painters.

The unions involved were, of course, engaging in no redistribution of their members' incomes. The wages of the largely male skilled trades workers could not be cut to pay for the clerical workers' raises, since chemists and painters can demand and get the market rate for the job. The $1.4 million would come from the taxpayers, or out of layoffs of overpriced clerical workers: that, so far as the other unions were concerned, was AFSCME's gamble to take.

The economic naivete of the city administration, however, horrified mayors in financially hard-pressed areas throughout the country. (San Jose's school district, which is administered separately, filed for bankruptcy this summer after money failed to materialize to pay for huge increases in teachers' pay it had agreed to.) Detroit Mayor Coleman Young commented wrathfully that "any time a city gets hung up on an abstract study that makes arbitrary comparisons of jobs but does not take into account the impact on society and its ability to pay, that's dealing in potential anarchy and inviting bankruptcy and the collapse of local government . . . If a painter makes more than a secretary, then let more women be painters."

The reply of the feminist leadership to such a suggestion is not simply one of economic naivete. It is one which reveals a bewildered hatred for the whole idea of labor markets, a willful denial of the very existence of supply and demand for human capital. It also betrays an elitist contempt - the contempt of Ivy League women with sociology degrees—for the jobs of most ordinary working stiffs, and the commitment shared with all of the leftist intelligentsia to statist determination and control of incomes.

Women, they declare, are "ghettoized" in low-paying jobs. Everyone knows there are shortages of nurses and secretaries, yet men have somehow conspired to hold down wages for the jobs women like to do, which shows that market forces don't really work for women. (The fact that there are hordes of young women pouring into these favorite vocations every day, even at those wage levels, is simply ignored.) Of course, there are traditionally male jobs that pay a lot more, and it's fine if a woman wants to be a painter or electrician or mechanic. But she shouldn't have to train herself for such jobs in order to get that higher pay.

Besides, the "movement's" ideologues hold, any system that permits a blue-collar Joe with an eighth-grade education to make more money than a woman with a master's degree in library science, just because his skills are in greater demand, is unacceptable and unfair. Jobs and incomes, they cry, are entitlements, matters of right. And nothing can guarantee women those rights except an all-powerful state, which would set the rate of pay for every job after democratic consultation and in line with egalitarian and feminist principles—with everyone, no doubt, having the right to an above-average wage.

The fact that such a system could neither exist nor work is probably beyond the grasp of political activists who prefer not to deal in economic analysis. The question of how an economy could obtain skilled machinists—or doctors, or accountants, or engineers—without wage differentials that repay the time and costs of study and training is one they never raise, much less answer. The implicit answer is that they have never really thought about women's work in terms of national output, only in terms of "self-fulfillment."

But most working women, like most working men, aren't working for any such la-di-da reasons. They're working because they nearly all have to. If they are working mothers, they may still prefer traditional jobs—clerical, bookkeeping, library, nursing, teaching—that they can leave and come back to as necessary. But in the past decade, huge numbers have been moving into such jobs as real-estate agents, insurance adjusters, production-line assemblers and inspectors, and even bus drivers and bartenders—all jobs in which women workers are now a majority. And they are making the same rates for the job as entry-level men are making.

The result: While women over 35 are still earning only 59 cents for every dollar earned by men, in the 25-34 age group that figure has jumped to 72 cents, and in the 20-24 age group to 87 cents. As more and more women who entered the job market in the last decade start moving up to take advantage of those higher-paying jobs, the ratio of women's wages to men's should be set for a sustained rise.

* * *

Lacking the incentives provided by those wage differentials, which both feminist ideologues and opportunistic politicians are now denouncing as discriminatory, neither women nor the national economy would go anywhere. But the relative worths which should be accorded to physical hardship, skilled training, academic credentials or whatever cannot be determined by federal courts, or by committees of trade union officials meeting in smoke-filled back rooms. Relative wages can only be set, in the words of Adam Smith, "not by any accurate measure, but by the higgling and bargaining of the market, according to that sort of rough equality which, though not exact, is sufficient for carrying on the business of common

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The 'Comparable Worth' Trap

By JUNE O'NEILL

Equal pay for jobs of comparable value has emerged as a goal of the women's movement. Advocates of this concept of "comparable worth" would have us abandon the market and substitute wage-setting boards to determine what women's occupations are "really worth" compared with men's. It recently received the blessings of a federal judge in the case of AFSCME vs. the state of Washington, where sex discrimination was equated with failure to pay women according to the comparable worth of their jobs.

At least as far back as the Middle Ages, the concept of "just price" has had some appeal. Practical considerations, however, have won out over philosophical musings. Most people recognize how inefficient it would be to use an evaluation system independent of the market to set wages or prices of consumer goods. So, for example, we accept a higher price for diamonds than for water, even though water is undoubtedly more important to our survival, and a higher wage for lawyers or engineers than for clergymen or bricklayers even though they may be equally important to our well-being.

The case for comparable worth is based on two beliefs: that women are relegated to certain jobs because of sex discrimination in the labor market and that pay in those jobs is low simply because women hold them. (The implication is that if nurses and secretaries were men, the pay in these occupations would rise).

Cultural Roles

The first argument may have some validity. Historically, there are many examples of barriers that restricted women's entry into particular occupations. These have included state laws governing women's hours and working conditions and the exclusion of women from certain schools. Individual employers who discriminate against women can always be found.

But the occupational patterns of men and women today also can be explained by factors that would operate even in the absence of any employer discrimination. The major reason men and women enter different occupations stems from the difference in their cultural roles, which are shaped early in life. Work roles may be starting to merge for young women and men, but most women already in the labor force have divided their efforts between home and work, spending about half as many years as men in the labor market. While employed, they have worked fewer hours. Research suggests that pay in women's occupations—for both women and men—is lower largely because of differences in education and on-the-job experience as well as differences in hours and other working conditions (such as exposure to hazards or outdoor work).

Comparable worth would do nothing to remedy discrimination. To the contrary, comparable worth would reduce the incentive for women to seek access to nontraditional jobs because it would increase the pay in predominantly female jobs. The more logical remedy for discriminatory barriers—and one squarely in the American tradition of fair play—is to eliminate them. Up to now this has been the traditional goal of feminists.

What would happen if wages were set in accordance with comparable-worth standards and independently of market forces? Take the example of the state of Washington. In the 1970s the state hired a job-evaluation firm to help a committee set pay scales for state employees. The committee's task was to assign points on the basis of knowledge and skills, mental demands, accountability and working conditions. In the evaluation, a registered nurse won 573 points, the highest number of points of any job. A computer systems analyst received only 426 points. In the market, however, computer systems analysts earn about 56% more than registered nurses.

Raising the pay of clerical jobs, teaching and nursing above the market rate would reduce the incentive to enter other occupations, and simply lead to an oversupply in women's fields.

The Washington study differed radically from the market in its assessment throughout the job schedule. A clerical supervisor received a higher rating than a chemist, yet the market rewards chemists with 41% higher pay. The evaluation assigned an electrician the same points for knowledge and skills and mental demands as a beginning secretary and five points less for accountability. Truck drivers were ranked at the bottom, receiving fewer points than telephone operators or retail clerks. The market, however, pays truck drivers 30% more than telephone operators and the differential is wider for retail clerks.

If a private firm employing both registered nurses and computer systems analysts were required to accept the rankings from the Washington state study, it would have to make significant pay adjustments. It could either lower the salaries of systems analysts or raise the pay of nurses. If it lowered the pay of systems analysts it would find it difficult to retain or recruit them. If it raised the pay of nurses it also would have to raise its prices and likely would end up reducing the number of registered nurses it employed as consumer demand for the service fell. Some women would benefit, but other women would lose. (In the Washington case, the state employee union explicitly requested and won a judgment that the wages in female occupations be raised, and not that wages to any male occupations be lowered.)

Public Sector

Of course, if the employer is a state government, the consequences would be somewhat different. The public sector does not face the rigors of competition to the same extent as a private firm, which probably explains why public-sector employee unions are in the forefront of the comparable-worth movement. The state, unlike a company, can pay the bill for the higher pay by raising taxes. But if taxpayers are unwilling to foot the bill, the result would be similar to that in the private firm: unemployment of government workers, particularly women in predominantly female occupations, as government services are curtailed.

Is the solution then to go beyond a state government or an individual company and institute nationwide pay scales based on comparable-worth principles? That would bring us to a planned economy, with all the allocation problems of centralized wages. And it would not result in more women becoming electricians, physicists, farmers or truck drivers. In fact, it likely would retard the substantial progress that has been made in the past decade. Women have moved into predominantly male occupations, and younger women have dramatically shifted their educational and occupational goals. They have been undertaking the additional training required for law, medicine and engineering because the higher pay they can obtain from the investment makes it worthwhile. Raising the pay of clerical jobs, teaching and nursing above the market rate would reduce the incentive to enter other occupations, and simply lead to an oversupply in women's fields, making it still harder to find a stable solution to the problem.

If women have been discouraged by society or barred by employers from entering certain occupations, the appropriate response is to remove the barriers, not to abolish supply and demand. Comparable worth is no shortcut to equality. It is the road to economic disruption and will benefit no one.

Ms. O'Neill is director of the Urban Institute's Program of Policy Research on Women and Families.

Letters

Pitfalls in Trying to Fix 'Comparable Worth'

To the Editor:

Your editorial of Feb. 17 defending "comparable worth" betrays all the misunderstandings and errors of fact that one comes to expect when feminist items enter the public agenda.

In the first place, your implications otherwise notwithstanding, there is no way to determine the worth of an activity beyond the value the market places on it. Moreover, the market value of an activity is not some arcane construct of economic theory, it is nothing less than how much other people are willing to pay, voluntarily, for that activity. Dismissal of market value is dismissal of the value of individual choices.

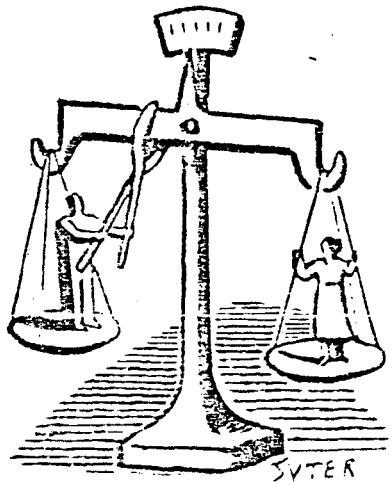
Feminists commonly point out situations where two jobs demand the same "responsibility" (in someone's opinion) but where the job done by a man earns higher pay than that done by a woman. What these anecdotes suppress is that in such cases there are more women willing to do the job in question than there are men for the corresponding job. If few men want to be tree surgeons and many women want to be librarians, it will cost more to get a tree surgeon. Concentrating on the demand factors of responsibility at the expense of supply factors is to ignore the essence of the free market.

You say, cryptically, that "sometimes the free market does not work." This is true — but only because government intervention has already deformed market mechanisms. If, for example, the minimum wage has pushed other wages to "unnaturally" high levels, it seems perverse to blame the market rather than the minimum wage.

Among your more particular errors of fact I would cite three.

First, the National Academy of Sciences' study did not prove that half the "wage gap" is due to discrimination.

The N.A.S. surveyed only a very limited literature; it nowhere controlled properly for even such an obvious variable as marital status. All it found was that it could not explain the wage gap by the variables it was using, which is quite consistent with



the operation of so-far undiscovered variables having nothing to do with discrimination. In fact, such other economists as Jacob Mincer and June O'Neil estimate that 90 percent of the wage gap can be explained by identified variables, the rest being simply an index of our ignorance.

Your second error lies in implying that the "comparable worth" concept can reasonably be implemented in local, firm-by-firm contexts.

Even within a single firm, it is meaningless to compare the "value" of distinct jobs; if the jobs are similar enough to be compared, they fall under the purview of the 1963 Equal Pay Act, and comparable worth is not needed to guarantee them equal recompense.

Your final error lies in assuming that comparable-worth activists are not interested in applying it economy-wide.

Simple perusal of their literature reveals that they are. Indeed, the Tanner decision in Washington, which will cost the taxpayers of that state a cool billion dollars, is a good indication of the scope of comparable worth hopes.

It is significant that governments and municipal unions are the parties now most interested in comparable worth. They do not face an economic bottom line and can always pay for their foolishness by raising taxes. Comparable worth is incompatible with a free market, and will lead to its destruction by increments.

MICHAEL LEVIN
Professor of Philosophy, City College
New York, Feb. 17, 1984

Adults Consenting

To the Editor:

Your question "What's a Woman's Work Worth?" can in the final analysis be answered only by her employers, leaving the woman free to accept or reject the wage offered. Each person, man or woman, is an individual, and his or her worth is determined by negotiation between employer and employee. Any attempt to influence this decision by legislation only leads to problems.

Your observation that "sometimes the free market cannot or doesn't work" is based on a misconception. When one examines the alleged failures of the free market, one finds inevitably that these are the consequences of government intervention.

The free market, by definition, means that everyone is free to pursue his own interests. And, as Adam Smith observed over two centuries ago, by pursuing his own interests he will achieve the wholly unintended result of raising the general welfare.

It is only when government intervenes in the free market that problems arise, which are then cited as justification for further intervention. The Equal Pay Act of 1968 violates the rights of both employers and employees to negotiate freely wages that are mutually acceptable. The notion of "comparable worth" makes sense only when the judgment of worth rests solely with the employer and employee.

No one suggests that the free market is perfect, but any attempt to regulate or intervene only leads to distortions, misallocation of resources and reduction in economic activity.

This country was built on the free market and, in a brief span of 200 years, we achieved a level of individual welfare unmatched in human history. Regrettably, during the last 50 years, government's ever-tightening strangulation of the market process has led to a massive bureaucracy, reduced economic activity, stunted growth and unnecessary unemployment.

The Supreme Court once ruled in a sex-related case that behavior between consenting adults is none of government's business. The free market directly results from behavior between consenting adults, and should for the same reason be none of the Government's business.

WILLIAM VANDERSTEEL
Director
Council for a Competitive Economy
Washington, Feb. 17, 1984

Measuring The Value of Work

Billions are at stake as the push for "comparable worth" spreads.

By Harry Bacas

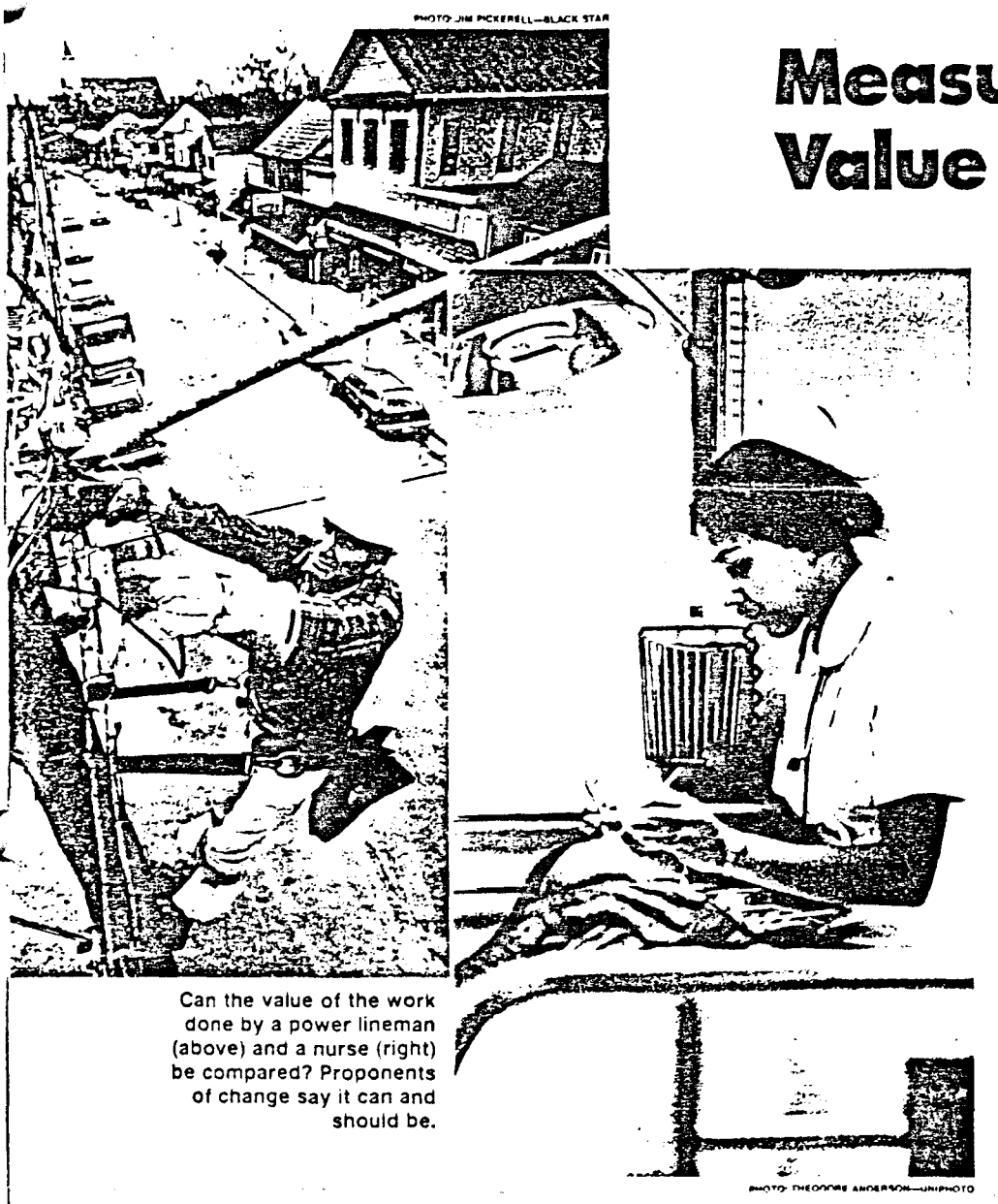


PHOTO: JIM PICKERELL—BLACK STAR

PHOTO: THEODORE ANDERSON—UNIPHOTO

Can the value of the work done by a power lineman (above) and a nurse (right) be compared? Proponents of change say it can and should be.

DO A NURSE and an electrician perform work of equal value to society? How about a secretary and a truck driver?

Such questions, which once might have been subjects for abstract philosophical discussion, are being considered more seriously and more often by American business these days.

They figure in the debate over the concept of comparable worth, which holds that workers who make equal contributions to society should be paid the same, even though the nature of their jobs differs. If universally applied, comparable worth could tremendously increase payroll costs.

The concept is not new—it was advanced in the late 1970s and early 1980s.

But it gained sudden prominence last December, when a federal judge cited it in issuing a judgment of nearly $1 billion against the State of Washington. Judge Jack Tanner ordered pay raised 32 percent, retroactive to Sept. 16, 1979, for 15,500 state jobs held predominantly by women.

The judge ruled that the state had engaged in sex discrimination in violation of the 1964 Civil Rights Act by paying less for those jobs than for comparable jobs held predominantly by men.

He cited an evaluation, ordered by the state, that assigned points to each state job. Those with the same number of points were deemed to be of comparable worth.

Existing law requires equal pay for equal work, but some women's groups say that, despite this, women's wages average 60 percent less than men's. Employment analysts note that women have, historically, been concentrated in lower-paying jobs and, on average, have less seniority—having spent only half as many years in paid employment as men.

The feminist movement hailed Judge Tanner's decision as a major boost for comparable worth, which feminists now prefer to call "pay equity." Opponents say the decision, which is being appealed, was too narrow to serve as a legal precedent. The U.S. Supreme Court will probably have the final word.

MEANWHILE, the American Federation of State, County and Municipal Employees, which brought the Washington suit, is pursuing comparable worth adjustments in many contract negotiations with public employers.

At least 18 states have job evaluations under way. A number have enacted comparable worth legislation affecting public employes.

Comparable worth bills have been introduced in both houses of Congress. Rep. Mary Rose Oakar (D-Ohio), head of a Post Office and Civil Service subcommittee, held hearings in April on two bills she has introduced. One would require comparable worth studies and adjustments of pay for federal employes. The other would push the Justice and Labor Departments and the Equal Employment Opportunity Commission to take more action under existing antidiscrimination laws.

Critics say comparable worth activity poses both theoretical and practical problems. Peter Germanis, a former Heritage Foundation analyst who recently joined the White House office of policy development, says a law requiring all employers to raise wages on the basis of comparable worth would add $320 billion annually to the cost of doing business in the United States.

Germanis also warns that if some government board, rather than the

open market, determined pay, "women might simply find their employment opportunities vanishing rapidly, as employers replaced them with men and machines."

He says that "if women prefer nursing to tree trimming, resulting in an oversupply of nurses relative to tree trimmers and a relatively low wage, the result may not be to the liking of nurses, but that does not mean employers are responsible and should be penalized for the result."

Germanis suggests that a better way to make wages fairer without more government regulation might be to change tax laws so that the secondary worker in a family—usually a woman—would not face such high marginal rates on earnings.

John A. Turney, president of the American Compensation Association, advises business executives that for now, there is no legal prohibition against an employer's "paying on the basis of the market, even if it results in lower rates of pay for jobs occupied predominantly by women."

But he cautions: "If you are considering making an internal job evaluation study, be prepared to rectify any illegal undervaluations that may come to light. Once the study has been made, it may be used against you to strengthen claims of discrimination."

Says Mark de Bernardo, a labor law expert for the U.S. Chamber of Commerce: "The question business people, both employers and employes, should be asking in their minds is, if this concept ever takes hold and there is a federal law mandating pay, who is going to make these determinations of worth, who will say how much your job is worth?"

Phyllis Schlafly represents the Eagle Forum Education and Legal Defense Fund, which held a two-day national conference on comparable worth last fall. She calls the movement "a direct frontal attack on the free market system."

SCHLAFLY SAYS that proponents have concentrated their activities for the time being on public employment "because politicians are the easiest to scare." But, she contends, the private sector will be the next target.

"The bottom line is federal wage control," she warns.

Schlafly, who has stumped the country testifying against comparable worth before legislative bodies, said at a recent news conference at the U.S. Chamber of Commerce that comparable worth "has been deceptively packaged as a women's rights issue."

She said the principle of equal pay for equal work has been the law for 20 years and is no longer a controversial issue. Pay equity, she said, also "is something everybody is for," although the meaning is unclear.

But comparable worth, Schlafly said, really means equal pay for unequal work, since it depends on evaluations of job worth that are intrinsically subjective.

In the Washington State case, for example, the study assigned points to various white-collar and blue-collar jobs so that they could be compared and ranked. Points were based on education and skills required, responsibility, mental demands and working conditions. Only 10 percent of the points were based on working conditions, even though many sociologists say working conditions are far more important than that in determining who goes into which jobs.

PHOTO DAVID WOODELL

Phyllis Schlafly calls the comparable worth movement "a frontal attack on the free market system."

One attorney, Arthur F. Rosenfeld of Hansell & Post in Washington, says the Washington State case "has been elevated to a status it doesn't deserve." He says the case involved "no proof that wage disparities in themselves indicate wage discrimination."

According to Rosenfeld, Judge Tanner held only that the state had failed to act on its own job evaluation study, which showed certain lower-paid jobs held mainly by women were "comparable" to certain higher-paid jobs held mainly by men.

Rosenfeld adds that the Supreme Court, in a 1981 decision dealing with the pay of prison guards and prison matrons, refused to endorse the comparable worth concept. He says that Congress also, in drawing up the 1963 Equal Pay Act and the 1964 Civil Rights Act, rejected the comparable worth concept as unworkable.

Another Washington attorney, L. Lorence Kessler of McGuiness & Williams, says Congress concluded, in writing the Equal Pay Act, that "courts should not substitute their own values" for the values employers place on jobs.

FOR SOUND BUSINESS reasons, Kessler says, an employer may decide that he should pay above the market rate for certain jobs; he may do so because he wants to attract and keep the best people available. He may also decide to pay below the market rate for other jobs because he considers cost savings more important than turnover.

Lawyers for public employe unions say, however, that they can win wage discrimination cases, as they did in Washington State, without any changes in federal law. They will continue to rely on job evaluation studies to convince courts that governments are discriminating against some employes because of their sex.

The unions are lobbying in state legislatures for more laws requiring that job evaluation studies of public employes be conducted.

Lane Kirkland, president of the AFL-CIO, says that comparable worth will be a top priority for the labor group in the next few years.

"The real game plan of the comparable worth proponents," says Schlafly, "is litigation and state legislation. After that they'll put pressure on private employers."

Schlafly, echoing Germanis, thinks the plan may misfire for women workers. "The unions have taken a short-sighted decision that they want more dues-paying members and the way to get women members is to buy the whole feminist movement agenda.

"But if wholesale wage raises are the result, will employers respond by hiring fewer women? Or by contracting out the work, perhaps to overseas firms. What good will that do for women?"

Kessler says he does not think private companies' existing job evaluations will be subject to comparable worth suits. But, he says, employers should be wary of asking professional evaluators to do studies that may be based on comparable worth rather than on market values and the employer's overall needs. He warns:

"Ordering such a study means you are just buying a lawsuit."

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OPM's Devine Sounds Alarm

'Comparable Worth' Scheme Moves Toward House Floor

Because Office of Personnel Management Director Donald Devine has spent his three years in office persistently calling attention to things like the automatic "merit" pay raises federal employes receive and the need to rein in the soaring costs of the civil service health and retirement programs, he has become a major hate figure among congressional liberals and left-wing federal employe unions.

Infuriated by Devine's reform efforts, liberals on the House Post Office and Civil Service Committee—which is charged with "oversight" of federal personnel practices—have attempted time and again to block Devine's actions or simply to embarrass him. But on one occasion after another, the OPM chief's adroitness has made him more than a match for the labor union allies who dominate the committee.

The latest run-in between Devine and his foes on the Post Office panel came just last week. At issue was the explosive new concept of "comparable worth," which holds that secretaries, nurses and teachers—normally considered women's occupations—should be paid the same as those in customary male occupations, such as attorneys, policemen and truck drivers.

While current law requires equal pay for men and women performing substantially the same job, the notion of "comparable worth" is far more radical and would be virtually impossible to enforce in any reasonable way. Rather than depending on market forces to determine the pay for various jobs, decisions concerning the comparable worth of different occupations would be turned over to the subjective whims of governmental bodies, judges and special panels.

But though the notion of comparable worth is extremely controversial, a measure to apply such a scheme to all federal job categories seemed poised last week for a quick trip to the House floor for passage before many of those who would be directly affected even knew of its existence.

Legislation co-sponsored by Representatives Oakar (left) and Schroeder (center), which would impose the radical "comparable worth" principle on all federal job categories, is being fought by OPM Director Devine.

Led by its "chair," Rep. Mary Rose Oakar (D.-Ohio), the Subcommittee on Compensation and Employee Benefits on May 17 suddenly added a "pay equity" (i.e., comparable worth) rider to a bill dealing with merit pay for federal workers and then approved the bill (HR 5680) for action by the full Post Office Committee.

At that point, the measure's liberal sponsors—Representatives Oakar, Pat Schroeder (D.-Colo.) and Steny Hoyer (D.-Md.)—were confident that the full committee would approve it quickly—and with little public attention—during the following week. But then on May 22, just one day before the committee was expected to act, the liberals' best-laid plans were disrupted—as they had been so many times in the past—by OPM Director Devine.

What Devine did was to invite a number of key unions—including the Laborers International Union, the Metal Trades Council, the National Association of Government Employees Union, and the Teamsters—to a briefing on the Oakar bill. Using a series of charts and diagrams, Devine explained to these unions, which represent many of the government's roughly half-million blue-collar workers, that a lot of their members could suffer if the bill's "pay equity" provisions became law.

Devine and his top aides noted that the bill would require OPM to complete within a seven-month period a study of the government's pay and classification system to see if it discriminates against women. The study—to be conducted in consultation with congressional committees and a "Pay Equity Study Council" consisting of representatives of federal employe unions and feminist organizations—would also have to include recom-

(Continued on page 21)

'COMPARABLE WORTH' / From page 1

mendations for eliminating "discriminatory pay practices."

Devine explained to the unions that, since most female government employes are concentrated in white-collar jobs while most of the government's blue-collar positions are held by men, enactment of the "pay equity" bill would probably force OPM to integrate the current Wage Grade (blue collar) and General Schedule (white collar) pay classification systems.

Moreover, said Devine, the integration of the two systems would inevitably work against blue-collar workers, who are currently paid according to a very informal system linking their compensation to local pay rates for similar jobs in the private sector.

Under the present system, for example, a sheet metal worker makes more than a secretary. This is based on the working conditions in such jobs and the comparison with what similar workers earn in private industry. If ranked according to the General Schedule now used for white-collar workers, however, such workers could be classified as "unskilled" and their relative rate of pay would inevitably suffer.

Devine's briefing of the union representatives infuriated the liberals. At a meeting the next day, Rep. William D. Ford (D.-Mich.), chairman of the Post Office and Civil Service Committee, publicly blasted Devine and threatened to conduct an investigation to determine if the OPM chief had violated federal regulations.

An OPM spokesman told HUMAN EVENTS, however, that Devine was fully within his authority in briefing the unions. "Those unions represent a major constituency of OPM, and the director had every right to get their input on the measure before taking a formal position on it," the spokesman explained.

Supporters of "pay equity" received a further disappointment when conservative Rep. William E. Dannemeyer (R.-Calif.) managed, using parliamentary procedure, to delay a "markup" of the legislation by the full committee. Dannemeyer, who had earlier warned committee members that the government would "buy a billion-dollar lawsuit" if the comparable worth bill were passed, forced termination of the May 23 markup session by noting that the committee did not have permission to meet while the House was in session.

Committee sources said later that the postponement would probably delay further action on the bill until early June. Foes are hoping the delay will provide time for those who would be hurt by the measure, including blue-collar workers and taxpayers, to make their opposition known to their representatives.

It would be hard to exaggerate the danger posed by this legislation. If passed, the Oakar bill would force a huge increase in federal salary costs—and this at a time when taxes as a percentage of the gross national product are at near-record levels and federal spending has sent the deficit racing out of control.

A good indication of what would happen at the federal level is what happened to Washington State.

The strategy used there by comparable-worth supporters, as Elaine Donnelly reported in our April 7 issue, "was first to get funding for an official Comparable Worth Job Evaluation Study" to determine what the state's employe pay rates would be if they were measured against an evaluation point scale—divorced from prevailing market wages.

Then, when the state did not follow up on the survey with major pay hikes for the jobs predominantly held by women, the unions went into federal court and got a judgment that the state was guilty of discrimination under the new standard implicitly sanctioned by the comparable-worth study. Unless overturned on appeal, the ruling by Judge Jack Tanner could cost state taxpayers a billion dollars or more.

The Oakar legislation would open the door to the same kind of litigation at the federal level. The most immediate effect would be felt by the taxpayers.

Lest anyone doubt that the cost of the federal payroll will skyrocket if "pay equity" becomes law, it should be pointed out that HR 5680 specifically forbids pay reductions as a means of adjusting various pay rates for comparability.

(At the same time, as OPM's Devine noted in a letter to Ford last week, the complexity of trying to adjust so many jobs will inevitably result in some workers getting pay cuts, despite the most strenuous efforts to avoid this result.)

But the effects, should HR 5680 (or any similar measure) be passed, will be felt far beyond the reaches of the federal workforce. Betty Friedan, the founder of the National Organization for Women, has described the comparable-worth concept as "the cutting edge of the second stage" of the feminist movement.

Enactment of "pay equity" with reference to the federal payroll would be viewed widely as congressional recognition of the comparable-worth principle. Once that happened, it would only be a very short step until the Left—through lawsuits, bureaucratic re-interpretations of existing statutes, strikes and other means—managed to impose the same standard on the private sector.

And that, as HUMAN EVENTS has previously noted, would mean "a controlled economy, inestimable costs for business and consumers, and the end of the free enterprise system as we know it."

It is precisely because the comparable-worth concept is so radical that many conservatives have refused to take it seriously. Any measure that is so costly and so inimical to free-market principles, it is widely believed, cannot have a snowball's chance of being passed by Congress.

But one government source who has followed the progress of this legislation closely told HUMAN EVENTS last week: "As it stands now, comparable worth has a good chance of passing both the House and Senate before the end of the year. Anyone who thinks otherwise is badly mistaken."

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SENATE LABOR & EMPLOYMENT
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Comparable worth measure seen as bankruptcy for N.C.

By EUGENE PRICE

An equal pay for comparable worth movement backed by Gov. Jim Hunt could radically change North Carolina's economic system and bankrupt the state, Mrs. Alice Wynn Gatsis, of Rocky Mount, said in Goldsboro Tuesday.

Existing law guarantees women equal pay for equal work, she noted. The new proposal would create a point system on which pay for state workers in dissimilar jobs would be based.

Mrs. Gatsis, speaking to the Wayne County Republican Women, said that such a point system established in the State of Washington had "bizarre results."

Here are some examples: Laundry worker 96, truck driver 97, librarian 353, carpenter 197, nurse 573, chemist 277.

That meant, she said, a laundry worker would be paid the same as a truck driver, librarians and nurses would be paid twice as much as carpenters and chemists.

No one's pay would be cut under the plan, but the pay of those considered below the level established by the points would be increased.

When the governor of Washington refused to implement the plan, employee unions brought suit and were supported by a federal district judge. Mrs. Gatsis said that if the decision is not reversed it will cost the state around a billion dollars.

She said the measure appropriating $650,000 for a study of an equal worth program for North Carolina was passed by the General Assembly because legislators feared Sen. Kenneth Royall and Gov. Hunt who were pressing for it.

Because the term "comparable worth" was becoming controversial the title was changed to "pay equity," she said.

Mrs. Gatsis warned that if such a system is established for state employees it will spread into the private sector, producing a socialistic system in which pay scales would be established by bureaucrats rather than by the marketplace.

She said Rep. H. Martin Lan-

(Continued on page 10A)

(Continued from page 1-A)

caster of Wayne County is a member of an advisory committee that will make recommendations regarding the study and urged citizens to give him the benefit of their concern.

Mrs. Gatsis became alarmed over the comparable worth issue and has undertaken a personal campaign to alert the public to what she feels are its dangers. She said the equal worth movement gained support because it was mistakenly envisioned as being in the best interest of women.

Mrs. Gatsis appeared on "Party line" Radio (WCEC - WFMA) Rocky Mount speaking against Comparable Worth. All calls to the show that day and the day Following were against Comparable Wort

Mrs Chipley (Head of Status of Women) appeared on the same show Speaking For Comparable Worth. She came on one week after Mrs. Gatsis (Aug. 14). All calls that day and the day Following

—EDITORIALS—

A dangerous $650,000 'investment'

The North Carolina General Assembly appropriated $650,000 this summer to explore the possibility of imposing a comparable worth system establishing pay for state employees.

This has strong support from some feminist groups. It was supported by Governor Jim Hunt and Senator Kenneth Royall, a powerhouse in the General Assembly.

The study allocation uses the term "pay equity" rather than comparable worth. But make no mistake about it. The object is comparable worth. And don't be mislead about the meaning.

Comparable worth has nothing to do with equal pay for men and women doing the same work. That already is guaranteed by law.

What, then, is comparable worth?

A program about to be forced onto the state of Washington — at the cost of a billion dollars — gives a good insight. It would set pay for jobs on a point system. A state agency looked at various factors involved in specific jobs and arbitrarily assigned points for each position.

Here are some samples: A worker in a laundry was given 96 points. The driver of a truck was rated 97 points, a librarian 353, a nurse 573 a carpenter 197 and a chemist 277. The message is clear. Laundry employees and truck drivers would be paid the same, librarians and nurses would be paid more than twice what chemists could earn and a librarian would make almost twice the earnings of a carpenter.

In the Washington system, no consideration is given to the law of supply and demand.

Mrs. Alice W. Gatsis, speaking in Goldsboro earlier this week, raised a pertinent question: What bureaucrat is capable of assessing the comparable value of people in totally unrelated jobs?

For example, how are we to compare the job of a detective to that of a nurse, a secretary to that of an electrician?

And for what useful purpose?

While the study in this state is aimed only at state jobs, Mrs. Gatsis warns that it inevitably would influence the private sector.

Mrs. Gatsis, of Rocky Mount, has undertaken virtually single-handedly to focus public concern on the issue.

In so doing she is performing a great public service. But with the steamroller methods used to get the $650,000 appropriation through the closing days of the last legislature, and in view of the forces behind the proposal, the taxpayers and all who believe in the private enterprise system had better close ranks.

This is the most bizarre move yet to turn us into a socialistic state.

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Collapse of Comparable Worth

By PHYLLIS SCHLAFLY

Comment

"COMPARABLE worth" is based on the notion that wages should not be fixed by the marketplace, but by a point system based on (1) a subjective evaluation of job worth, (2) a comparison of different kinds of jobs held mostly by women with jobs held mostly by men, and (3) using litigation or legislation to mandate the system.

Since it is unlikely that people will agree on such imprecise factors as "accountability" and "mental demands," the bottom line is that wages would be fixed by judges or bureaucrats. It's hard to conceive of a more radical attack on the private enterprise system.

Comparable worth bills were introduced into Congress and some two dozen state legislatures during 1983 and 1984. On Dec. 14, 1983, U.S. District Judge Jack E. Tanner in Tacoma, Wash., handed down a 42-page decision endorsing a "comparable worth compensation system."

JUDGE TANNER decided for the American Federation of State, County, and Municipal Employees and against the State of Washington based on a job evaluation study. The study concluded that (female) laundry workers should be paid equally with (male) truck drivers because they were assigned the same number of points, and that based on points (female) librarians should be paid about twice as much as (male) carpenters and chemists. The total cost to Washington State taxpayers is estimated at $1 billion.

The most effective argument to defeat comparable worth bills became, "If you commission a study, you are buying a lawsuit." This threat helped to defeat bills in Illinois and Missouri. Iowa Gov. Terry Branstad and California Gov. George Deukmejian used their veto power to mitigate the impact of similar bills. In Congress, a comparable worth bill for federal employees was defeated in the Senate in October 1984 though it had breezed through the House.

The chief argument that derailed the comparable worth express train is that it would adversely affect blue-collar workers. Comparable worth rests on the theory that women have been channeled into certain occupations (e.g. clerical and nursing), and then paid less than men in jobs which allegedly have comparable worth. The men's jobs with which the women's jobs are compared are always blue-collar jobs, such as trucking, firefighting, police work, and carpentry. If "equity" required an equalizing of wages for, say, stenographers and truck drivers, then inevitably the truck driver will have to forgo his raise so that the stenographer can be given comparable pay.

OPPONENTS of comparable worth have successfully punctured the principal myth that has given momentum to the concept: the notion that women are paid only on average 59 percent of what men are paid. That tells you as much about sex discrimination as the statistic that the average temperature in the United States is 66 degrees tells you about whether to wear a coat in Chicago today.

Factors other than discrimination account for the lion's share of the wage differential. Men work, on the average, eight more hours per week than women; are more likely to be subject to occupational injury or accident; and spend more of their working years in the labor force. The average woman had been on her present job only half as long as the average man, and she is 11 times more apt to leave. Considering all this, it is hardly surprising that men tend to make more money than women.

The concept of comparable worth would lead us away from our record of proven economic success toward a system of government wage control based on subjective evaluations made by bureaucrats, judges, or job evaluators. Fortunately, such high-tax, more-government proposals are the wave of the past.

(The writer is founder and president of the Eagle Forum; this article is adapted from the Winter, 1985 issue of Policy Review.)

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Why Women Earn Less Than Men

Women Move In And Out Of The Work Force, Take Part-time Jobs In Greater Numbers

By Martin Lefkowitz

Men earn more than women. The evidence is incontrovertible. In 1985, the average pay for women who worked full time was $277 per week, about 68 percent of the average for men. Women managers, professionals and administrative workers did a tad worse in that same year, taking home 65 percent.

The pay differential has been at about the same level for decades. The Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964, both of which outlawed sex-based discrimination in jobs and pay, appear to have had virtually no effect on the differential.

But while the pay of men and women is significantly different in many cases, there is very little evidence that this is due to widespread discrimination on the part of American business. To charge that the situation is the outcome of some vast plot — as do many activist feminists — is to ignore the facts and rely on emotionalism and unsubstantiated conjecture. There are a number of quite reasonable and natural causes for the differences in pay for men and women.

For instance, fewer than 12 percent of the men in the labor force work part-time while about 30 percent of the women are part-timers. This difference alone is a major contributor to the pay differential. Even among full-time workers, defined as 35 hours per week or more by the Labor Department, women tend to work fewer hours than men. When women work full-time, they are more than three times as likely to work fewer than 40 hours per week. And men are two and one-half times as likely to work more than 40 hours per week.

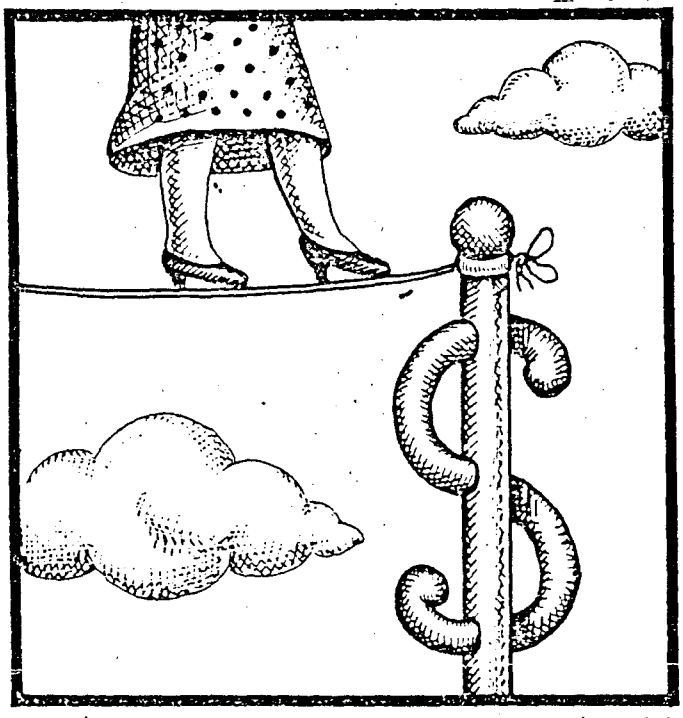
Another factor is that the average man will spend about 42 percent more of his lifetime in the labor force than the average woman. Chances are still about 50-50 that a woman will drop out of the labor force for a period of years when she has small children. The mothers of 55 percent of all youngsters below the age of 6 as well as 40 percent of those with children between the ages of 6 and 17 are not in the labor force.

These periods of absence result in a depreciation of job skills and often result in a woman having to start at an entry level position upon returning to work.

Another factor that contributes to pay differentials is tenure in a specific job with a specific employer. Because of the importance of seniority in determining wages, two people doing the same job for the same employer will generally get different pay if they have been employed for different periods, even if they show the same degree of job proficiency.

For example, the government pays new workers only 75 percent of what senior employees get for the same job. The average job tenure of men is more than 50 percent greater than it is for women. In the mid-career ages of 45 to 54, when pay tends to be highest, the average tenure for men is 13.4 years, nearly twice the 6.9 years average for women.

Also, women have inordinate representation in jobs and professions that tend to have more flexible work schedules. Women seem more willing to forgo greater pay for more flexibility. For example, women comprise more than 80 percent of all elementary school teachers, an occupation with a work year of about 180 days compared to about 240 days for most occupations. Many other occupations that have a preponderance of women, such as nursing and food service, while they do not have a shorter work week or year, do have much more flexibility in terms of scheduling than most occupations.



Women tend to be less geographically mobile than men, limiting their ability to search out the best opportunity and the highest pay. For example, during the last recession, many unemployed auto workers migrated to Texas and Louisiana for high-paying jobs in the oil fields rather than accept lower-paying jobs in Michigan.

In contrast, women tend to stay with their families and move (and sacrifice their own career opportunities) only in response to better job opportunities for their husbands.

A study shows that single men and single women earn virtually identical wages. The reason is that they have similar employment characteristics, which is not true of married men and women.

Women spend less time than their male counterparts on productivity-enhancing education and training, and this is one factor in explaining the pay differential. While there are about as many women attending colleges today as there are men, the historical difference in college attendance is significant. Over the age of 25, men are 50 percent more likely to have attended four or more years of college than their female counterparts.

What the statistical evidence indicates is that through choice and chance many women have been concentrated in occupations and jobs that have lower wages.

An article in the Aug. 18 *Fortune* magazine told how women executives, many of them in the upper levels of corporate management, were leaving for less demanding — and usually lower paying — careers or departing the work force entirely. Many seemed to have decided that the hassles of competition are not worth the success they bring.

When taken on a job-to-job basis within firms, the figures show there is virtually no pay differential between men and women. For instance, according to the Department of Labor, female accountants in the lowest level earn just 1 percent less than their male counterparts while in the top accounting category they earn 10 percent less. Among lawyers, women at the lowest level earn 3 percent more while at the top end of the profession they earn 6 percent less.

The major reason for the differential between the pay of men and women appears to be the difference in work levels rather than pay differences within narrowly defined pay categories. The data indicate that men and women are receiving equal pay for equal work, but that fewer women than men are at the higher levels of many occupations.

This difference, at least in part, is directly attributable to women being later entrants than men into certain professions, such as accounting and law. For example, in 1981, 46 percent of the entry-level accounting positions were held by women, compared to 14 percent 10 years earlier.

The evidence shows that we don't need an overhaul of our nation's system of paying its workers. Most important, we don't need a system of comparable worth wage-setting by the government. Our present laws assure that women workers are fairly treated.

Martin Lefkowitz is director of special projects for the National Chamber Foundation, an affiliate of the U.S. Chamber of Commerce.

Jobs, wages, incomparable worth

By Richard E. Burr

The success of comparable worth depends on the assumption that jobs can be evaluated with a reasonable degree of scientific precision and objectivity. Allan Bellak, a general partner of Hay Management Consultants, which has developed comparable worth plans, says "job evaluation is a disciplined, objective process for rank-ordering jobs on an agreed compensable value scale." Eleanor Smeal, president of the National Organization for Women, is certain that "you can measure productivity as well as measure what a person is worth to a company."

But my study of three states that determine pay on the basis of comparable worth evaluations shows enormous variances in the relative "worth" of the same jobs in different states.

For example, a secretary would be ranked first among three jobs in Washington State and Iowa, but last in Minnesota and Vermont. A data-entry operator would place first in Minnesota but third in Iowa, while Vermont and Washington rank the job second.

Vast discrepancies occur in the job scores for the three states. In Minnesota, for instance, a registered nurse, a chemist and a social worker all have equal values and would be paid the same. However, Iowa's study finds the nurse worth 29 percent more than the social worker, who in turn is worth 11 percent more than the chemist. While the chemist also receives the lowest point score of the three positions in the Vermont study, the social worker and nurse reverse rankings. The social worker is valued about 10 percent more than the nurse, who is worth 10 percent more than the chemist.

Even more flagrant differences arise when comparing the scores of the same job across states. A photographer is valued twice as highly in Vermont as in Iowa. A photographer in Minnesota is worth 25 percent more one in neighboring Iowa. A Minnesota librarian is worth 30 percent more than a Vermont librarian, who in turn is 20 percent more valuable than one in Iowa.

There is also tremendous variance in the number of factors considered to evaluate a job. The widely touted Hay system considers 11 factors. A Kansas study created eight factors; Michigan has 11, Wisconsin 12. Iowa, which adopted the Hay plan, has 13 factors, and New York settled on 14.

The next step for evaluators is to weigh the relative importance of each factor by assigning a percentage to it, sometimes altering the consulting firm's recommendations. For example, knowledge may be weighted at 25 percent, while working conditions may be weighted at 10 percent. The weight for all factors must total 100 percent.

The process of weighting factors can be very subjective. For instance, Michigan gave its knowledge factor an 11 percent weight while Iowa more than doubled it to 25 percent. Kansas staked out the middle ground in its proposed scheme; its average weight [high and low values were weighted differently] for knowledge was 18 percent.

Iowa valued knowledge the highest and physical demands the lowest. Michigan rated the consequences of decisions and actions as the highest and work pace and context the lowest. Averaging the top and bottom level scores showed that Kansas valued contacts the most and physical demands the least.

All of these arbitrary decisions build to the climax of this subjective process—assigning the total number of points to each job. Of course, the value of job characteristics depends on the individual job evaluator. In a Maine study, job evaluators were given instructions explaining how to use a point system. For example, a hypothetical "first-line supervisor job" might be scored at 152, 175 or 200 points depending on the know-how characteristics of the job. "Your final decision," the instructions advised, "is to choose one of these numbers based on your 'feel' for the strength or weakness" of each characteristic in the know-how category.

This "get in touch with your feelings" approach is highly subjective and can lead to quite different results. In the case of a New Mexico task force, four of the eight job evaluators agreed on the worth of only 8 percent of jobs analyzed. In other words, half of the evaluators could not agree on the same level for a given job in 824 of the 896 classifications evaluated.

All this shows that comparable worth is a concept riddled with bias and arbitrariness. Work does not correspond to a particular dollar figure. Typing letters is determined by what people are willing to pay. In other words, the market is the proper mechanism for determining wages—not whimsical committees of lawyers and aggrieved feminists.

Chicago Tribune, Oct. 13, 1986

Richard E. Burr is a research analyst at the Center for the Study of American Business at Washington University in St. Louis. This article is adapted from the fall issue of Policy Review, the quarterly journal of the Heritage Foundation.

SHALL I COMPARE THEE TO A PLUMBER'S PAY?

Comparable Worth Collapses

PHYLLIS SCHLAFLY

"Comparable worth" is one of the few new ideas the liberals have come up with in the last several years. But just because it is a new idea doesn't mean it has merit.

The advocates of comparable worth want to throw out the system of wage setting that has produced the highest wages for the most people of any economic system in the history of the world. They want to replace it with a totally untried system under which they would set wages for everyone according to their notions of "pay equity." The fact that pay equity can be defined according to any standard one chooses apparently doesn't matter, since the comparable worth advocates plan on using their political muscle and litigating lawyers to establish their definition at any cost.

The term "comparable worth" is based on the notion that wages should not be fixed by the marketplace, but by a point system based on (1) a subjective evaluation of job worth plus (2) a comparison of different kinds of jobs held mostly by women with jobs held mostly by men, and then (3) using litigation or legislation to mandate the system.

Since it is unlikely that people will agree on allocations of specific numerical points for such imprecise factors as "accountability" and "mental demands," the bottom line is that wages would be fixed by judges or bureaucrats. It's hard to conceive of a more radical attack on the private enterprise system.

Comparable worth is deceptively dangerous because it is packaged as "women's rights." Interviews with many congressmen and state legislators confirm that they signed on as co-sponsors of comparable worth bills after being intimidated by such questions as "Aren't you for pay equity for women?" and "Don't you support equal pay for women? Then sign here." Few legislators gave what would have been the appropriate retort, "I support equal pay for equal work but I do not support equal pay for UNequal work."

Comparable worth bills were introduced into Congress and some two dozen state legislatures during 1983 and 1984. Some bills sought to impose the comparable worth concept on private industry; others limited their effect to public employees, but their advocates readily admitted that this was only the first step toward regulating the entire wage system. The essential component of all these bills was to order a study of salaries and wages, something which sounds harmless because ordering a study is a traditional technique by which legislators dispose of controversial items.

Washington's Billion-Dollar Boondoggle

Then a blockbuster hit business, legal, and political circles on December 14, 1983. U.S. District Judge Jack E. Tanner in Tacoma, Washington, handed down a 42-page decision endorsing a "comparable worth compensation system." Washington State's Assistant Attorney General, Clark Davis, commented that this ruling would "jeopardize the pay scale of every employer in the country." From his work on the case, Mr. Davis was well aware that the strategy of the comparable worth advocates is "public employers today, private industry tomorrow."

Judge Tanner decided for the American Federation of State, County, and Municipal Employees (AFSCME) and against the State of Washington based on a job evaluation study which had assigned points to all Washington State employees. The study concluded that (female) laundry workers should be paid equally with (male) truck drivers because they were assigned the same number of points; and that, based on points, (female) librarians should be paid about twice as much as (male) carpenters and chemists. The cost to Washington State taxpayers to implement the study's recommendations under the court's decision is estimated to be $1 billion.

The lesson of the Washington State case is mind-boggling: it is that the conclusions of the evaluators are binding on the employer. Judge Tanner bluntly told Washington State: By ordering the study, the state "knew its employees would be entitled to pay commensurate with their evaluated worth. Any other conclusion defies reason."

PHYLLIS SCHLAFLY, *founder and president of Eagle Forum, is the editor of* Equal Pay for UNequal Work, *and author of* A Choice, Not an Echo.

The lesson of the *AFSCME v. State of Washington* decision was not lost on cost-conscious legislators and governors in other states. The most effective argument to defeat comparable worth bills became, "If you commission a study, you are buying a lawsuit." This threat helped to defeat a bill for a $400,000 study of wage equity in the Illinois Legislature. Missouri legislators defeated a bill that would have required the state to make a three-year job evaluation and then equalize salaries for "comparable" jobs.

In some states, a comparable worth bill was already on the governor's desk before the lesson of the Washington State case was fully understood. Iowa Governor Terry Branstad used his line-item veto to mitigate the impact of the bill by keeping the authority to handle all complaints in the executive branch; and California Governor George Deukmejian vetoed a $76 million allocation for comparable worth adjustments to equalize salaries of women and men. Later he vetoed a bill to establish a commission to make a study on pay equity. Those who successfully urged this veto pointed out that, since public salaries have a big impact on private salaries, comparable worth would give California an uncompetitive business climate.

UPI Bettmann Archive

Comparable Worthniks want to lower her pay.

Illinois Nurses Its Wounds

The truth of the perception that "if the legislature commissions a study, it is buying a lawsuit" is indicated by the Illinois experience. First, the Illinois Legislature was sweet-talked into giving an extra $10,000 to the feminist dominated Commission on the Status of Women for the purpose of a token study on job discrimination among state employees. The study was controlled by comparable worth advocates, carried out under their terms, with personnel of their choosing. Predictably, the study reported that nurses were paid less than men in jobs to which the evaluators had assigned the same number of points.

A few days after the study was completed, the Illinois Nurses Association filed a claim with the Equal Employment Opportunity Commission. As soon as the prescribed waiting period expired, the case moved into the courts; the State of Illinois is now defending itself against this action. Dozens of cases are now pending with the EEOC all over the country, ready to move into court when the waiting period expires.

In Congress, a comparable worth bill for Federal employees breezed through the House by a large majority, but was defeated in the Senate in October 1984. The chief argument which derailed the comparable worth express train was the adverse effect it would have on blue-collar workers. Comparable worth sponsor Mary Rose Oakar (D-OH), whose district is blue-collar Cleveland, became very defensive on this point and amended her bill to stipulate that no wages could be reduced in order to achieve comparable worth.

That begs the question, as the Senate realized. Comparable worth rests on the theory that women have been channeled into certain occupations (e.g., clerical and nursing), and then paid less than men in jobs which allegedly have comparable worth. The men's jobs with which the women's jobs are compared are always blue-collar jobs, e.g., trucking, firefighting, police work, carpentry, and building maintenance.

Comparable Statistics Prove Pay Equity

If "equity" requires an equalizing of wages for, say, stenographers and truck drivers, and the company product must be sold for $X, or the Federal or state budget must be held at $X to avoid raising taxes, then inevitably the truck driver will have to forgo his raise so that the stenographer can be given comparable pay. The Office of Personnel Management pointed out that this would be the result if comparable worth legislation forced the integration of white-collar and blue-collar pay scales [illegible]

of cost as well as of fairness, the U.S. Senate fortunately decided not to open up this particular Pandora's box.

Opponents of comparable worth, in Congress as well as in California, have also successfully punctured the principal myth which has given momentum to the concept: the notion that women are paid only 59 percent of what men are paid. The 59 cents figure is the average wage of all working women compared to the average wage of all working men. That tells you as much about sex discrimination as the statistic that the average temperature in the United States is 66 degrees tells you about whether to wear a coat in Chicago today.

Comparable worth opponents have presented massive evidence from academic research to prove that the pay differential between all men and all women is not due to discrimination but to a variety of other factors. For example, women in full-time employment work an average of 36 hours per week, while men work an average of 44 hours per week. The average woman has been on her present job only half as long as the average man, and she is 11 times more apt to leave.

Furthermore, the occupational injury and accident rate for women is about half that of men, according to OSHA, because the more dangerous industries, such as mining and construction, are predominantly male. Industries with a high level of accidents pay weekly wages 13.6 percent higher than risk-free industries, accounting for 6 to 7 percent of the earnings gap between men and women. These are only some of the reasons explaining and justifying the wage differential between men and women.

Many scholars, including Michael Levin, Michael Finn, and Walter Williams, believe that the principal reason for the wage gap between men and women is marriage, which has a huge effect on women's performance in the paid labor force. Professor Solomon Polachek of the State University of New York found that married women, on the average, spend only 35 percent of their potential working years in the labor market. Women who have never married, on the other hand, spend 54 percent of their working years in the labor market if they are college graduates and 67 percent if they are high school graduates.

The End Is Near

Though *AFSCME v. State of Washington* continues to make its way toward the U.S. Supreme Court, the U.S. Court of Appeals for the Ninth Circuit in July 1984 dealt a major blow to comparable worth. In *Spaulding v. State of Washington*, this court affirmed the dismissal of a comparable worth lawsuit filed by faculty of the University of Washington School of Nursing who were paid less than the faculty at other University schools. Ruling that women could sue only if they presented evidence showing that the wage disparity was caused by intentional sex discrimination, the court warned that the untried comparable worth theory "would plunge us into uncharted and treacherous areas."

The comparable worth bandwagon may now be coming to a halt. Business groups and organizations supporting traditional private enterprise values are providing the research, legislative analyses, and political support needed by congressmen and legislators, as well as filing *amicus curiae* briefs to support state governments already in litigation. Such groups still have to play catch-up for another year because the interest groups seeking comparable worth have been grinding out their materials for a decade.

The concept of comparable worth would lead us away from our record of proven economic success toward a system of government wage control based on subjective evaluations made by bureaucrats, judges, or job evaluators. Fortunately, such high tax, more government proposals are the wave of the past.

From: Policy Review
The Heritage Foundation
214 Massachusetts Ave., N.E.
Washington, D.C. 20002

RANK INJUSTICE

The Arbitrary Record of Comparable Worth

RICHARD E. BURR

Comparable worth is alive and well. Thirteen states will have made comparable worth pay adjustments by the end of 1986, according to the National Committee on Pay Equity, and 34 other states are considering the idea. The concept has also been adopted in several counties and city governments.

The success of comparable worth depends on the assumption that jobs can be evaluated with a reasonable degree of scientific precision and objectivity. Comparable worth advocates are confident. Alvin Bellak, a general partner of the Hay Management Consultants, which has developed comparable worth plans, says "job evaluation is a disciplined, objective process for rank-ordering jobs on an agreed compensable value scale." Eleanor Smeal, president of the National Organization for Women, is certain that "You can measure productivity as well as measure what a person is worth to a company."

But a study of states that determine pay on the basis of comparable worth evaluations shows how arbitrary and meaningless the process is. Consider Table 1. It shows enormous variances in the relative "worth" of the same jobs in different states. For example, a secretary would be ranked first among three jobs in Washington State and Iowa, but last in Minnesota and Vermont. A data entry operator would place first in Minnesota but third in Iowa, while Vermont and Washington would rank the job second.

The lines drawn in Table 1 indicate the crossover of rankings from state to state. In the case of neighboring Iowa and Minnesota, the crossover eventually may translate into actual migration of secretaries and data entry operators, because their worth varies considerably on either side of the state line. You are not paid according to what you do, apparently, but according to where you live. Racial and sexual discrimination give way to geographic discrimination.

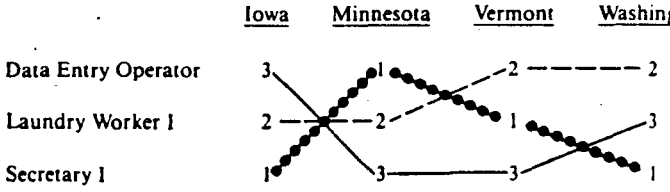
Now consider Table 2 (next page), which compares point scores in three states after converting them to a common base. Iowa, Minnesota, and Vermont furnish the best examples because they provide the greatest amount of information on how they have conducted their comparable worth studies.

Vast discrepancies occur in the job scores for the three states. In Minnesota, for instance, a registered nurse, a chemist, and a social worker all have equal values and would be paid the same. However, Iowa's study finds the nurse worth 29 percent more than the social worker, who in turn is worth 11 percent more than the chemist. While the chemist also receives the lowest point score of the three positions in the Vermont study, the social worker and nurse reverse rankings. The social worker is valued about 10 percent more than the nurse, who is worth 10 percent more than the chemist. H'm.

Even more flagrant differences arise when comparing the scores of the same job across states. A photographer is valued more than twice as highly in Vermont as in Iowa. A photographer in Minnesota is worth 25 percent more than the one in neighboring Iowa. A Minnesota librarian is worth 30 percent more than a Vermont librarian, who in

RICHARD BURR *is a research analyst at the Center for the Study of American Business, Washington University. This is adapted from his report, "Are Comparable Worth Systems Truly Comparable?"*

TABLE 1: JOB RANKINGS VARY ACROSS STATES



'Rankings are from 1 to 3, with 1 being the highest rated of the three jobs 3 the job of least value among the three.

Source: Center for the Study of American Business

TABLE 2: COMPARISON OF JOB CATEGORIES

RANKINGS	IOWA JOB	ORIGINAL POINTS	INDEX	MINNESOTA JOB	ORIGINAL POINTS	INDEX	VERMONT* JOB	ORIGINAL POINTS	INDEX
1	Nurse	(382)	248	Librarian	(275)	275	Social Worker A	(287)	342
2	Social Worker I	(295)	192	Chemist	(238)	238	Nurse-General Duty	(262)	312
3	Librarian I	(273)	177	Social Worker	(238)	238	Chemist A	(238)	283
4	Chemist I	(266)	173	Registered Nurse	(238)	238	Photographer	(238)	283
5	Revenue Examiner I	(254)	165	Dental Hygienist	(209)	209	Dental Hygienist	(196)	233
6	Dental Hygienist	(252)	164	Tax Examiner	(194)	194	Librarian A	(178)	212
7	Secretary I	(217)	141	Photographer	(167)	167	Beautician	(178)	212
8	Photographer	(205)	133	Baker	(147)	147	Tax Examiner A	(178)	212
9	Laundry Worker I	(193)	125	Beauty Operator	(142)	142	Baker	(122)	145
10	Cook I	(188)	122	Cook	(129)	129	Cook A	(111)	132
11	Baker I	(188)	122	Janitor	(111)	111	Janitor [Building Custodian A]	(101)	120
12	Beautician	(187)	121	Data Entry Operator	(106)	106	Laundry Worker	(101)	120
13	Data Entry Operator	(174)	113	Laundry Worker	(105)	105	Data Entry Operator	(92)	110
14	Janitor	(154)	100	Secretary [Clerk-Typist]	(100)	100	Secretary A	(84)	100

Numbers in parentheses indicate original point totals. Other numbers are indicies based on a value of the job class with the lowest point total.

*A range of points was given for each Vermont job. The scores in this table are midpoints of these ranges.

Source: Center for the Study of American Business.

turn is 20 percent more valuable than one in Iowa.

There is also tremendous variance in the number of factors considered to evaluate a job. The widely touted Hay system, developed by Hay Management Consultants, considers 11 factors. A Kansas study created eight factors; Michigan has 11 factors; Wisconsin produced 12 factors; Iowa, which adopted the Hay plan, has 13 factors; and New York settled on 14 factors.

The next step for evaluators is to weigh the relative importance of each factor by assigning a percentage to it, sometimes altering the consulting firm's recommendations. For example, knowledge may be weighted at 25 percent, while working conditions may be weighted at 10 percent. The weight for all factors totals 100 percent.

The process of weighting factors can be very subjective. Table 3 shows just how much the weightings vary across states. For instance, Michigan gave its knowledge factor an 11 percent weight while Iowa more than doubled it to 25 percent. Kansas staked out the middle ground in its proposed scheme; its average weight (high and low values were weighted differently) for knowledge was 18 percent.

Iowa valued knowledge the highest and physical demands the lowest. Michigan rated the consequences of decisions and actions the highest and work pace and context the lowest. Averaging the top- and bottom-level scores showed that Kansas valued contacts the most and physical demands the least.

All of these arbitrary decisions build to the climax of this subjective process—assigning the total number of points to each job. Of course, the value of job characteristics depends on the individual job evaluator. In a Maine study, job evaluators were given instructions explaining how to use a point system. For example, a hypothetical "first-line supervisor job" might be scored at 152, 175, or 200 points depending on the know-how characteristics of the job. "Your final decision," the instructions advised, "is to choose one of these numbers based on your 'feel' for the strength or weakness" of each characteristic in the know-how category. This "get in touch with your feelings" approach is highly subjective and can lead to quite different results. In the case of a New Mexico task force, four of the eight job evaluators agreed on the worth of only eight percent of jobs analyzed. In other words, half of the evaluators could not agree on the same level for a given job in 824 of the 896 classifications evaluated.

All this shows that comparable worth is a concept riddled with bias and arbitrariness. The solution, of course, is not to have a federal standard that determines the worth of jobs—that might level the discrepancies among states, but would be just as arbitrary.

Work does not correspond to a particular dollar figure. Typing letters or building houses has no intrinsic monetary worth; its value is determined by what people are willing to pay. In other words, the market is the proper mechanism for determining wages—not whimsical committees of lawyers and aggrieved feminists.

TABLE 3: WEIGHTING COMPENSABLE FACTORS

KANSAS Factors [1]	Bottom Level %	Top Level %	Average %	MICHIGAN Factors	Indiv. %	Total %	IOWA Factors	Indiv. %	Total %
Knowledges and Skills Required	20%	16%	18%	Knowledge Required	11%	11%	Knowledge from Formal Training/Education Knowledge from Experience	15% 10%	25%
Complexity	20%	18%	19%	Complexity	10%	10%	Complexity, Judgment and Problem-Solving	12%	12%
Consequences of Decisions/Actions	5%	22%	13.5%	Effect Supervisory Controls Guidelines	11% 10% 9%	30%	Scope and Effect Impact of Errors Guidelines/Supervision Available	10% 5% 5%	20%
Contacts	30%	12.5%	21.25%	Personal Contacts Purpose of Contacts	7% 9%	16%	Personal Contacts	10%	10%
Supervision/Leadership	5%	12.5%	8.75%	Supervision Exercised	9%	9%	Supervision Exercised	8%	8%
Environmental Conditions	5%	11%	8%	Work Environment[2]	8%	8%	Working Environment Unavoidable Hazards/Risks	5% 5%	10%
Physical Demands	5%	4%	4.5%	Physical Activities	8%	8%	Physical Demands	5%	5%
Visual/Auditory Demands	10%	4%	7%	Work Pace and Context	8%	8%	Mental/Visual Demands Work Pace/Pressures and Interruptions	5% 5%	10%
8 Factors	100%	100%	100%	11 Factors	100%	100%	13 Factors	100%	100%

Source: Center for the Study of American Business.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 1/27/87

SMALL BUSINESS CONFERENCE OPPOSES COMPARABLE WORTH. The White House Conference on Small Business, composed of 1,823 delegates appointed by members of Congress, met August 17-21 in Washington, and passed 60 "final recommendations" or resolutions on national policy, including one which dryly disposed of the Concept of Comparable Worth in two sentences: "The concept of comparable worth is contrary to the free enterprise system. Compensation should be based upon market supply and demand." Other resolutions called for a balanced federal budget, a new cabinet position to deal with the trade deficit, and reform of IRS and regulatory procedures. The recommendation receiving top priority dealt with the crisis in liability insurance in the U.S.; second place went to a call for elimination of government-mandated employee benefits. A controversial call for abolition of the Small Business Administration was amended to calling for a review of its programs, thanks to heavy lobbying by the U.S. Chamber of Commerce and the National Federation of Independent Business. The Reagan Administration has asked for termination of the agency, which has a record of funding investments for the very rich and questionable enterprises. (UPI reported Aug. 11 that a gift shop in St. Louis which was started with a $300,000 loan from the SBA is selling drug paraphernalia -- "everything you need to weigh them [drugs], process them and package them," according to an agent with the Federal Drug Enforcement Administration.) Speaking to the conference delegates, Senator Robert Dole informed them that after the last conference in 1980, 2/3 of what was recommended was addressed and passed by Congress.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
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SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 1/27/99
BILL NO. SB 169

Comparable Worth Is Not Comparable or Worthy

The concept called Comparable Worth is based on studies which are not comparable and certainly are not worth the cost expended on them. That is the conclusion of a thorough evaluation of the evaluators made by the Center for the Study of American Business at Washington University in St. Louis. Research Analyst Richard Burr examined the job studies made by those states that have already plunged into Comparable Worth fantasies. The evidence shows that the Comparable Worth concept is so unscientific that it is ridiculous, and so biased that it is funny.

Comparable Worth advocates claim that their method of setting wages is scientific and objective because it is based on assigning numerical scores to the worth of various aspects of particular jobs, and then paying equal wages for jobs that result in the same numbers on the "worth" chart. They argue that this is fairer than the free market.

If it is valid to compare different jobs that are assigned the same numerical worth, then it should be even more valid to compare the same jobs in different studies. Burr did this, plotting on charts the three states that have done the most extensive Comparable Worth studies, Iowa, Minnesota and Vermont. The results are devastating to the concept.

Take librarian, a favorite job which the Comparable Worth advocates always say is presently underpaid. According to the Comparable Worth studies, a Minnesota librarian is worth 30 percent more than a Vermont librarian, who in turn is worth 20 percent more than the Iowa librarian. Such results are hardly scientific.

Take photographer. A Minnesota photographer is worth 25 percent more than the Iowa photographer, and the Vermont photographer is worth twice as much as the Iowa photographer. It's obvious that the "worth" scores are not objective.

In Minnesota, a registered nurse, a chemist and a social worker all have equal worth. However, in Iowa, the nurse is worth 29 percent more than the social worker, who in turn is worth 11 percent more than the chemist. In Vermont, the social worker is worth 10 percent more than the nurse, who in turn is worth 10 percent more than the chemist.

Comparable Worth studies do not attempt to compare all job classifications. The concept is limited to comparisons of gender-dominated jobs. If you work in a type of job that has half men and half women, you are not even on the chart for discussion.

When the Comparable Worth concept first surfaced, jobs were compared that were 70 percent or more dominated by men or by women. But when the 70 percent figure didn't produce the desired proof of discrimination, the Comparable Worth advocates began to play games with the 70 percent figure. For example, in New York, a job is considered to be female-dominated if it has 67.2 percent women, but male-dominated if it is 90 percent men. The Center for Women in Government admitted that using the same figure for women and men wouldn't show very much discrimination, so it arbitrarily chose the different cutoff figures.

Who does the job evaluations? Some states use fellow employees, one state used specialized outsiders, one state used college students, and New York relied solely on "self-reports" from employees while rejecting information from supervisors.

Then there is the problem of what aspects of a job are evaluated and quantified. Usually, the factors are divided into four areas: knowledge and skills, problem solving, accountability, and working conditions, with many subheads under each.

But how do you weight and rank these factors and then assign numbers to them? Richard Burr concluded that the mathematical formulas are only a facade for preconceived notions. For example, Michigan ranks "knowledge" as 11 percent while Iowa ranks it as 25 percent. "Consequences of decisions/actions" counts for 30 percent in Michigan but only 14 percent in Kansas.

In Michigan, the factor for physical demands was defined in such a way that lifting a 75-pound box once every two hours is said to require the same effort as typing and lifting many smaller objects such as papers and pencils during the same period.

How do the evaluators determine the number of points for each factor? The instructions explain how: "Which one you choose is a judgment of your 'feel' of the strengths and weaknesses of the factors." So Comparable Worth is not objective after all. It is a "get-in-touch-with-your-feelings" methodology.

Comparable Worth Cheats Blue Collar Workers

Comparable Worth is the concept of getting a government functionary to decide what jobs are "worth," and then forcing employers to pay wages based on that opinion. But "worth" is in the eye of the beholder, so the game plan is always to rig the system so that the evaluators are persons who share your own biases about job "worth."

Evaluators are usually professional or white-collar people who have little or no first-hand experience with the hard, grimy, unpleasant work which makes our economy function. As a result, the typical job evaluation is skewed to give lots of "points" for diplomas and other paper credentials, but very few points for adverse working conditions, physical effort and bodily risk.

The typical job evaluation system allows only 2 to 3 percent of the points for physical factors. The 97 to 98 percent goes for mental or intangible factors. I made my own personal survey, asking blue-collar men to describe some of the physical aspects of their jobs that they feel exceed 2 or 3 percent of what their jobs are all about. Here are some answers in their own words.

Carpenter Foreman: "Severe back injuries from falling, straining, lifting. Breathing insulation fibers. Injuries from working in refinery work. Developing asbestosis. Hearing impairment from working near noisy machinery and equipment. Hernias. Loss of fingers. Knee injuries."

Automobile Technician: "Lung damage from asbestos-laden brake dust. Ear damage from high decibel noises created

by air tools. Cancer from skin contact with gasoline and used engine oil. Liver damage from breathing vapors of gasoline and solvents. Lead poisoning from leaded gasoline. Headaches from high concentrations of carbon monoxide. I have suffered bodily injury from a hot coolant hose bursting, from a refrigerant line breaking, from a fire from a backfiring carburetor, from drive belts and fan clutches breaking loose and becoming deadly projectiles, and from shop equipment and tools breaking under stress."

Chemist at a coal-fired utility plant: "Constant exposure to very high voltage electrical areas. Working with hazardous chemicals: acids, caustics, carcinogens. Working in coal-related areas of high dust concentration."

Equipment Operator in a steel mill: "I operate a centerless grinder (a finishing operation) in a steel mill. I get paid well, but I do a job that a lot of college folks probably wouldn't do. Loud noise (I have to wear ear plugs), heat and cold (I don't have heating or air conditioning), and weight (I constantly deal with 5,000 pound bundles, some people in the mill deal with 20 tons). I am standing all the time. My fingers are constantly taking abuse (splinters, bruises, blood and water blisters, and I even broke off the tip of one finger)."

Equipment Operator: "I operate heavy equipment which is dangerous. I work around barges which contain extremely dangerous chemicals."

Auto Body and Fender Worker: "The shops are always terribly hot in summer (never air conditioned), and cold in winter because garage doors are open for cars to go in and out. The exhaust fumes from the painting area can be quite unhealthy. The shops are generally dirty, dusty, dark and unhealthy places to work in."

Airline Mechanic: "I work around jet aircraft which are dangerous if you don't watch out. One can easily wind up seriously hurt. The chemicals and fluids used in servicing the aircraft are also very harmful."

Electrical Supervisor: "I work in petro-chemical construction, around areas that contain dangerous chemicals and poison gases under high pressures. The structures are dangerous and the equipment very heavy. We work with high voltages that have the potential to injure or kill. Jobs are often short. I have been on 16 jobs for three different companies in four years. There is no guarantee of more work once a specific job is finished. Workers aren't kept on the payroll between jobs. Relocation is frequent and often expensive."

Security Guard: "I ain't got no diploma, but I've been trained for my job and have lots of responsibility. My job is a lot more dangerous than a nurse or especially a school teacher. We have women as guards but they can't really perform in crises."

No one is qualified to be a job evaluator unless he or she has actually worked in the real world and learned at first hand that physical discomforts, dangers and duties are why blue-collar jobs often pay more than inside jobs that require only paper credentials.

Comparable Worth Rejected by the Courts

The legislative history of the Equal Pay Act of 1963 shows that Congress specifically rejected proposals that would have established an equal-pay standard based on "comparable worth," and instead chose "equal work." Nevertheless, the American Federation of State, County and Municipal Workers (AFSCME) filed suit against the State of Washington demanding that the Federal courts read "comparable worth" into the law.

AFSCME won the first round in the case of *American Federation of State, County, and Municipal Employees v. State of Washington*. An activist U.S. District Judge at Tacoma, Washington (a Jimmy Carter appointee) held that Washington State had engaged in sex discrimination by not paying equal wages for entirely different jobs which the Willis evaluation had alleged were of "comparable worth."

On appeal, the Ninth Circuit Court of Appeals on September 4, 1985 rejected the concept called Comparable Worth, as well as the two legal theories on which AFSCME had tried to prove discrimination: "disparate impact" (the "effects" rule) and "disparate treatment" (the "intent" rule).

The court ruled that the "effects" rules cannot be used against an employer's decision to base compensation on the competitive market. "We find nothing in the language of Title VII or its legislative history," said the court, "to indicate Congress intended to abrogate fundamental economic principles such as the laws of supply and demand or to prevent employers from competing in the labor market."

Continuing, the court said, "Neither law nor logic deems the free market system a suspect enterprise. Economic reality is that the value of a particular job to an employer is but one factor influencing the rate of compensation for that job." Other factors include the availability of workers willing to do the job and the effectiveness of collective bargaining.

AFSCME tried to prove discriminatory intent by citing the Willis evaluation, but failed. Pointing out the subjectivity and unreliability of job evaluations, the court said, "The results of comparable worth studies will vary depending on the number and types of factors measured and the maximum number of points allotted to each factor."

Actually, the Willis point system itself deliberately and massively discriminated against blue-collar workers. The evaluator would grant points to each job classification based on his personal perception of the "worth" of four qualities. A maximum number of points was allotted to each category: 280 for knowledge and skills, 140 for mental demands, 160 for accountability, and 20 for working conditions. That meant that all the adverse working conditions and risks to health and limb endured by blue-collar workers would at most give only a little over three percent of the total points. No wonder the court called attention to "the possibility that another study will yield different results"!

The court held that the employer's reliance on a free market system, in which employees in male-dominated jobs are compensated at a higher rate than employees in dissimilar female-dominated jobs, is *not* in and of itself a violation of Title VII, notwithstanding that a "study" alleged that the positions had "comparable" worth. The employer should be able to take market conditions into account, added the court, and Title VII does not obligate the employer "to eliminate an economic inequality which it did not create."

This landmark Ninth Circuit decision has enabled Congressmen and state legislators to treat the radical notion of Comparable Worth with the scorn it deserves. Rep. Richard Armey (R-TX) pronounced the advocates of Comparable

Worth in Congress as "like Captain Ahab chasing Moby Dick, except that they don't even have one leg to stand on now."

America is a land of equal opportunity; it is not a land of equal results. Those who want the latter can look to the Soviet Union where all except the top bosses receive comparably low wages.

Comparable Worth Colloquies

"We're not talking about Comparable Worth. We're talking about pay equity."

I don't blame anyone for trying to avoid the label Comparable Worth; it's a horrible idea. But when an animal walks like a duck and quacks like a duck, it's a duck no matter what you call it. It *is* Comparable Worth if it meets two tests —Comparable and Worth. "Comparable" means comparing jobs that are completely different, such as nurses and plumbers. "Worth" means having some wage commissar decide what employees are worth. Both ideas are wrong, and together they are an economic disaster.

"These bills only call for a study; there's nothing wrong with that."

That reminds me of the fish encountering a juicy bait on the end of a line. It looks delicious, but it has a fatal hook in it. What's wrong with a Comparable Worth study is the hook in it; it will hook us into endless lawsuits. That's the lesson of the costly *AFSCME v. State of Washington* case. The judge ruled that the State was bound to implement the study. In the case of the *Illinois Nurses v. State of Illinois*, the ink was scarcely dry on the study before the nurses filed suit to get the same pay as the electricians. The evidence is overwhelming that, if you order a study, you are buying hundred-million-dollar lawsuits.

"All we want is fairness."

There is nothing fair about these bills. The membership of all proposed Comparable Worth commissions is rigged so that the majority of the members must come from organizations that have endorsed Comparable Worth (either unions or the Democratic Party). Let's be honest and label them commissions of Comparable Worth Commissars. Don't pretend they are equitable and fair when they are not.

"How dare you call the commissioners 'commissars'! What do you mean by that?"

Commissars are officials who have extraordinary power to enforce their own political bias. That's exactly what a Comparable Worth commission is. The power to set wages is enormous. Not only is the membership of the commission loaded with advocates of Comparable Worth, but the commissioners are given extraordinary power to determine that whatever wage differences they cannot explain *must* be labeled "discrimination." The result is predetermined.

"Comparable Worth has been put into effect in many places and is working well."

That's not true. In Minnesota, the policemen and the firemen have filed suit to try to stop the Comparable Worth evaluations from being applied to them because they see that they will be devalued, as will all blue collar workers.

"The bill is not an attack on blue collar workers."

The whole point of Comparable Worth is *relative* or *comparable* wages. The purpose of the proposed evaluation is to *compare* women and men. If some women are *under* paid, comparatively speaking, others must be *over* paid, — and those are the blue collar workers. The technique which the evaluators use to devalue blue collar workers is a point system in which physical effort and working conditions combined make up less than 5% of the points a worker can get. When all workers are evaluated into a single wage system by these Comparable Worth Commissars, the blue collar workers always lose.

"35 states are doing Comparable Worth studies."

Not true. They may be considering them, but most states are rejecting them. The momentum is going *against* Comparable Worth. Most states that have considered Comparable Worth have defeated it, including Illinois and Texas. North Carolina repealed its earlier endorsement.

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Guest Editorial:

Apples, Oranges, and Comparable Worth

By Gerald D. Skoning

Gerald Skoning is a partner in the firm of Seyfarth, Shaw, Fairweather & Geraldson in Chicago, where he has specialized in the practice of employment law and Equal Employment Opportunity (EEO) litigation for over 16 years. He is a graduate of Princeton University and received his Juris Doctor degree from University of Michigan Law School in 1967. He has practiced in 15 different federal district courts, five federal courts of appeals, and has argued numerous cases before the U.S. Supreme Court. He has written extensively in the area of labor and EEO laws, and speaks on a regular basis before a variety of groups and associations regarding these and other legal issues.

Last weekend I went grocery shopping. My wife asked me to pick up some apples. We were having some friends over for dinner and she thought sliced apples and cheese would be a delicious, light, and economical dessert.

The fresh produce department was alive with activity. The Golden Delicious apples looked particularly shiny and good so I selected half a dozen and handed them to the produce clerk to be weighed. Just then I noticed the price—89 cents a pound. I was shocked! The price had skyrocketed 24 cents in just one week. They now cost just as much as the fresh Florida oranges in the next bin.

I confronted the produce manager. "These apples must be marked wrong. They were 65 cents a pound just last weekend."

"No, that price is right, sir. I just checked it for another customer. Sorry."

I was amazed. "But I just read that apple producers are having a record good year. The harvest is the best in five years. How can the price go up over 35 percent in one week?"

"I'm sorry, sir, we have to charge this price, same as for those oranges."

"But that's crazy. The Florida citrus crop has been damaged by that canker disease. I don't know what it does exactly, but they said on the news that the crops have suffered and now prices will go up."

The produce manager looked annoyed. "Look, CWC has ruled. We have to charge the same for apples as we do for oranges."

Now I was totally mystified. "What in hell is the CWC?"

"That's the new government agency—the Comparable Worth Commission. They set prices for various fruits and vegetables based on the value to the consumer. Like this apples and oranges situation. They concluded that both are fruits, both are equally good for dessert and both have the same nutritional value, so the consumer should pay the same whether it's apples or oranges."

I thought he was kidding, but a fellow shopper was shaking her head in dismay. "I can't believe it either," she said. "I've tried four other supermarkets. Everywhere it's the same. Apples and oranges are the same price."

I was outraged. "This is just ridiculous. Who are these commissioners to decide how much apples are worth to me? Why, I don't even like oranges much."

The clerk had finished weighing my apples and turned to me with a shrug of his shoulders and an apologetic expression. "Look, I don't set these prices. Our store doesn't set these prices. Competition and market conditions don't have anything to do with our prices anymore. They're calling it 'price equity.' If you have a beef, take it to the Commission. I just can't do a thing about it."

He turned briefly to his next customer, then turned back to me: "Need any pears or bananas today? I hear there's another case pending before the Commission. Price on both of them will probably go up to the same as fresh raspberries next week. You might want to stock up before the prices are reset by the Commission."

Now I was really incensed. Some government bureaucrat just loves bananas, so he thinks their worth is comparable to raspberries. I'm really lukewarm on bananas. Fresh raspberries are my favorite. But I have to pay the same for either one. So I might as well have raspberries on my cereal in the morning more often and skip bananas altogether. And who knows what the Commission might do with the price of peaches!

Sound ridiculous? Sound impossible in a free society? Sound like 1984 has swept away the last remnants of the free market system in our country? Well, fortunately no one has yet proposed a Comparable Worth Commission for price equity in consumer products. But under the banner of "pay equity," proponents of equal pay for "comparable worth" are advocating that apples be equated with oranges in the workplace.

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Chamber of Commerce
of the United States
1615 H Street, N.W.
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NEWS RELEASE

FOR IMMEDIATE RELEASE
Tuesday, June 19, 1984

Contact: Frank Benson
(202) 463-5682

CHAMBER BOARD VOTES OPPOSITION TO THEORY OF COMPARABLE WORTH, CITING ADVERSE IMPACT ON NATION'S EMPLOYMENT

WASHINGTON, June 18 — Implementation of the concept of comparable worth through government mandate would reject marketplace factors that now determine wage levels, and instead would establish a process which "cannot be successfully implemented," the Board of Directors of the U. S. Chamber of Commerce declared at its recent regularly scheduled meeting.

Acting on the recommendation of the federation's Labor Relations Committee, the 65-member policy-setting body of the nation's largest business federation voted overwhelmingly to oppose the employment concept of comparable worth, an issue which the Committee described as "the primary equal employment issue of the 80s."

While reasserting its support for the concept of pay equity, the Chamber's Board expressed the view that "any effort to implement into the workforce by government mandate the concept of 'comparable worth'...would unnecessarily disrupt the labor market."

Robert T. Thompson, chairman of the Chamber's Labor Relations Committee and a Board member, commented to his fellow Directors, "Economists have predicted that implementation of comparable worth nationwide would result in a 9.7 percent direct increase in inflation and a $320 billion cost to employers. Comparable worth is fast emerging as the primary equal employment issue of the 80s and a priority labor law issue," said the Greenville, S. C. attorney, senior partner in the firm of Thompson, Mann and Hutson.

######

NOTE TO CORRESPONDENTS: For more information on the Chamber's position on the comparable worth issue, contact Mark A. de Bernardo, manager of labor law for the Chamber, at (202) 463-5517.

(84-158)

Pay Equity Issue Moving to Forefront

By WALLACE TURNER
Special to The New York Times

SAN FRANCISCO, Dec. 9 — "Comparable worth," the idea that men and women should get the same pay for doing different jobs of similar difficulty and requiring equivalent skills, is drawing increasing attention from the courts, the Reagan Administration and researchers.

The California State Employees Association recently added the concept to its negotiating list for next year.

At the same time, the Heritage Foundation, a conservative research organization, has told the Department of Justice that "the fight against comparable worth must become a top priority" in the next four years.

As these positions are taken, litigation is pending from Nassau County, L.I., to Puget Sound, from Fairfax County, Va., to Anchorage in which public employee unions seek to upset traditional pay patterns that they argue discriminate against women.

U.S. Studies Concept

And the United States Equal Employment Opportunity Commission has undertaken a study of the issue with the aim of deciding next year whether the concept is a legal basis to uphold complaints of job discrimination.

The issue bloomed to national prominence in the fall of 1983 when Federal District Judge Jack Tanner of Tacoma, Wash., held that Washington State had consistently discriminated against women by paying lower salaries in the job classifications predominantly filled by women than the salaries paid in job classifications filled mostly by men.

The state has appealed the order. Arguments on the appeal are expected in early spring before the United States Court of Appeals for the Ninth Circuit.

"We'll win it on retrial," said Winn Newman, a Washington, D.C., lawyer for public employee unions that have filed such suits in several states. Among the suits, he said, is one in behalf of New York City police dispatchers, most of them black women, who are paid less than the city's fire dispatchers, most of them white men. Other suits have been filed in behalf of librarians in Fairfax County, near Washington, and in behalf of 15,000 Nassau County employees, half of them women.

Retroactive Pay Ordered

Judge Tanner ordered wage payments in the Washington State case retroactive to 1979 for about 15,000 state workers, mostly women. The new wage scales he ordered provided 31 percent increases. State officials estimated they would have to raise about $800 million, which they said would require extensive tax increases.

Last month the California State Employees Association filed a suit in Federal District Court here attacking California's payroll as sex-discriminatory.

The suit argues that women employed by the state have been "segregated into job classifications on the basis of sex, and as a result, are paid less than employees in historically predominantly male classifications which require an equivalent or lower composite of skill, effort, responsibility and working conditions."

The suit cites several job categories that assertedly fall under such conditions. For example, top salary for a keypunch operator is $1,309 a month, compared with $1,523 for a groundskeeper. Back pay and salary adjustment are asked.

This year Gov. George Deukmejian, a Republican, vetoed legislation passed by the Democratic-controlled Legislature that provided $76.6 million for a start in leveling out salaries in line with the "comparable worth" concept. The Governor said he believed the subject should be handled through bargaining, not legislation.

Last month the United States Supreme Court refused to accept an appeal from a group of nurses employed by the University of Washington who had sued in 1974 using the "comparable worth" argument.

The Federal appeals court in San Francisco held that the nurses had failed to prove they were the victims of "disparate treatment." They showed only that they were paid less, not that they were paid less because they were women, the court said.

Last month a hearing officer for the Alaska Commission on Human Rights ruled against 11 women employed as nurses by the State Public Health Service. They had argued that they were paid substantially less than doctors' assistants, all men, in the state correctional system.

View of Commissioner

Joan Katz, the examiner, did not reject the concept, but held that the nurses had not shown that their jobs were sufficiently similar to those of the doctors' assistants. The final decision, which can be appealed, is to be made by the commission, said Allison Mendel, attorney for the nurses.

Clarence Thomas, head of the Equal Employment Opportunity Commission, said the concept could not be supported under existing law. "To say that the Administration does not believe in comparable worth is not to say that we don't believe in pay equity," he said. "There's a tendency to interchange these."

In its proposed agenda for the Justice Department in the second Reagan Administration, the Heritage Foundation said the "comparable worth" idea "would lead to a flood of litigation, massive wage redistribution, a distortion of free market principles and, ultimately, widespread job dislocation."

Mr. Newman, attorney for the unions, replied that such arguments show "the bigots are stepping up their campaign to argue that it is all right to discriminate against women."

THE NEW YORK TIMES, FRIDAY, DECEMBER 14, 1984

Chicago Sun-Times
Rupert Murdoch, Chairman
Robert E. Page, President and Publisher
Kenneth D. Towers, Managing Editor
K. K. Gaur, Editor of the Editorial Pages

A worthless idea

Before the phrase "comparable worth" becomes too firmly entrenched, the theory it represents ought to be exposed for what it is: a bold statist encroachment on the free market.

The rash of comparable-worth court actions across the country lends only a peek at the thin end of the wedge of self-serving litigation that could fall upon the courts.

It would be a mistake to consider the concept a "women's issue" merely because it occupies a high place on the feminist agenda. Any attempt to frame the issue in the context of fairness to women is unfair and grossly misleading.

The attempt this time is not to secure for women the same pay that men with similar credentials get for doing the same job. That is a goal with unquestionable merit.

There is no reason for women to be subjected to such discrimination, with the costs not just in money but also in dignity and morale.

That such bias existed in the past was disgraceful.

If it is allowed to continue to happen, it would be unconscionable.

But comparable worth is a sociologist's pipe dream, and it could become an economic nightmare.

It has nothing to do with fairness toward women.

The concept of comparable worth is unfair per se. It is not about equity. It is about comparing dissimilar jobs and dissimilar job preparation, not similar jobs and similar job preparation. In some suits filed, it is about comparing jobs with widely divergent educational and training demands.

Basically, it rests on the premise that women have been shoved into a whole range of job categories on the basis of gender and are paid less than men are for the job classifications in which they traditionally are dominant.

Comparable worth does not go to the point of whether a female coal miner and a male coal miner of equal experience should get equal pay, which, of course, they should.

Instead, it presumes that a woman day-care worker or secretary should get pay comparable to that of a male high-iron worker or ship's captain, or that a file clerk in a steel mill office should be paid at a rate comparable to that of the mill's skilled hard hats.

A desire for greater income is perfectly normal. But it is wrong to seek that goal through such Alice-in-Wonderland schemes. Income differences exist, but they are, in general, based on factors like occupation, geography, and company size and financial ability; gender is not the determining factor.

Wouldn't it be much simpler for a person aspiring to a truck driver's income to seek to become a truck driver? Does a professor with a doctorate have cause for legal action because his, or her, salary does not match the incomes of most physicians?

For that matter, there is considerable disparity between the incomes of someone teaching at a small college and someone else of equal qualifications teaching at a larger university.

What category of "discrimination" or "unfairness" does that fall into?

The fact is that the push for "comparable worth" is not an attempt at equity, but an attempt at the wholesale redistribution of income, implemented and watched over by a vast, unprecedented bureaucracy with great power and little accountability.

It is, quite evidently, a leveling concept that has no place in a free-market society.

Comparable worth is not an idea whose time has come. May it never come.

FRIDAY, JANUARY 20, 1984 WALL STREET JOURNAL

The 'Comparable Worth' Trap

By JUNE O'NEILL

Equal pay for jobs of comparable value has emerged as a goal of the women's movement. Advocates of this concept of "comparable worth" would have us abandon the market and substitute wage-setting boards to determine what women's occupations are "really worth" compared with men's. It recently received the blessings of a federal judge in the case of AFSCME vs. the state of Washington, where sex discrimination was equated with failure to pay women according to the comparable worth of their jobs.

At least as far back as the Middle Ages, the concept of "just price" has had some appeal. Practical considerations, however, have won out over philosophical musings. Most people recognize how inefficient it would be to use an evaluation system independent of the market to set wages or prices of consumer goods. So, for example, we accept a higher price for diamonds than for water, even though water is undoubtedly more important to our survival, and a higher wage for lawyers or engineers than for clergymen or bricklayers even though they may be equally important to our well-being.

The case for comparable worth is based on two beliefs: that women are relegated to certain jobs because of sex discrimination in the labor market and that pay in those jobs is low simply because women hold them. (The implication is that if nurses and secretaries were men, the pay in these occupations would rise).

Cultural Roles

The first argument may have some validity. Historically, there are many examples of barriers that restricted women's entry into particular occupations. These have included state laws governing women's hours and working conditions and the exclusion of women from certain schools. Individual employers who discriminate against women can always be found.

But the occupational patterns of men and women today also can be explained by factors that would operate even in the absence of any employer discrimination. The major reason men and women enter different occupations stems from the difference in their cultural roles, which are shaped early in life. Work roles may be starting to merge for young women and men, but most women already in the labor force have divided their efforts between home and work, spending about half as many years as men in the labor market. While employed, they have worked fewer hours. Research suggests that pay in women's occupations—for both women and men—is lower largely because of differences in education and on-the-job experience as well as differences in hours and other working conditions (such as exposure to hazards or outdoor work).

Comparable worth would do nothing to remedy discrimination. To the contrary, comparable worth would reduce the incentive for women to seek access to nontraditional jobs because it would increase the pay in predominantly female jobs. The more logical remedy for discriminatory barriers—and one squarely in the American tradition of fair play—is to eliminate them. Up to now this has been the traditional goal of feminists.

What would happen if wages were set in accordance with comparable-worth standards and independently of market forces? Take the example of the state of Washington. In the 1970s the state hired a job-evaluation firm to help a committee set pay scales for state employees. The committee's task was to assign points on the basis of knowledge and skills, mental demands, accountability and working conditions. In the evaluation, a registered nurse won 573 points, the highest number of points of any job. A computer systems analyst received only 426 points. In the market, however, computer systems analysts earn about 56% more than registered nurses.

Raising the pay of clerical jobs, teaching and nursing above the market rate would reduce the incentive to enter other occupations, and simply lead to an oversupply in women's fields.

The Washington study differed radically from the market in its assessment throughout the job schedule. A clerical supervisor received a higher rating than a chemist, yet the market rewards chemists with 41% higher pay. The evaluation assigned an electrician the same points for knowledge and skills and mental demands as a beginning secretary and five points less for accountability. Truck drivers were ranked at the bottom, receiving fewer points than telephone operators or retail clerks. The market, however, pays truck drivers 30% more than telephone operators and the differential is wider for retail clerks.

If a private firm employing both registered nurses and computer systems analysts were required to accept the rankings from the Washington state study, it would have to make significant pay adjustments. It could either lower the salaries of systems analysts or raise the pay of nurses. If it lowered the pay of systems analysts it would find it difficult to retain or recruit them. If it raised the pay of nurses it also would have to raise its prices and likely would end up reducing the number of registered nurses it employed as consumer demand for the service fell. Some women would benefit, but other women would lose. (In the Washington case, the state employee union explicitly requested and won a judgment that the wages in female occupations be raised, and not that wages to any male occupations be lowered.)

Public Sector

Of course, if the employer is a state government, the consequences would be somewhat different. The public sector does not face the rigors of competition to the same extent as a private firm, which probably explains why public-sector employee unions are in the forefront of the comparable-worth movement. The state, unlike a company, can pay the bill for the higher pay by raising taxes. But if taxpayers are unwilling to foot the bill, the result would be similar to that in the private firm: unemployment of government workers, particularly women in predominantly female occupations, as government services are curtailed.

Is the solution then to go beyond a state government or an individual company and institute nationwide pay scales based on comparable-worth principles? That would bring us to a planned economy, with all the allocation problems of centralized wages. And it would not result in more women becoming electricians, physicists, farmers or truck drivers. In fact, it likely would retard the substantial progress that has been made in the past decade. Women have moved into predominantly male occupations, and younger women have dramatically shifted their educational and occupational goals. They have been undertaking the additional training required for law, medicine and engineering because the higher pay they can obtain from the investment makes it worthwhile. Raising the pay of clerical jobs, teaching and nursing above the market rate would reduce the incentive to enter other occupations, and simply lead to an oversupply in women's fields, making it still harder to find a stable solution to the problem.

If women have been discouraged by society or barred by employers from entering certain occupations, the appropriate response is to remove the barriers, not to abolish supply and demand. Comparable worth is no shortcut to equality. It is the road to economic disruption and will benefit no one.

Ms. O'Neill is director of the Urban Institute's Program of Policy Research on Women and Families.

NAME: Mrs. Beverly Glueckert DATE: 1/27/87

ADDRESS: 1529 Chateau St. - Helena

PHONE: 442-9824

REPRESENTING WHOM? Myself

APPEARING ON WHICH PROPOSAL: Sen. Keating SB 169

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Please refer to my test written testimony.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 1/27/87
BILL NO. SB 169

Senate Employment Committee
Chairman — Sen. John "J. D." Lynch
Sen. Bill #169 — Rhomas A. Keating, Spons
January 27, 1987

In the job marketplace jobs hold monetary "worth" only in relationship to what someone is willing to pay. This is the reason why a comparable "worth" (C.W.) system cannot be objective.

Who is to determine "worth" if the marketplace rates, supply and demand are ignored?

Who will make up — and that's what it is — (invented,) the point system to "prove" discrimination today in such a C.W. system?

Congress rejected the C.W. language in passing the Equal Pay Act of 1963.

It must be recognized that there are no definite tests of the fairness of the choice of comparable factors and the relative weight given to them. The process is inherently judgmental ... "emits the National Academy of Sciences whose reports are often cited by C.W. advocates.

Professor Ruth Blumrosen, a leader of the C.W. theory concludes that job evaluation is inherently a subjective and untrustworthy process.

The U.S. Commission on Civil Rights concluded in its 232 page study concerning the "Habit" is profoundly theory of Comparable Worth and irretrievably flawed".

Mrs. Beverly Glueckert

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SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 4/27/87
BILL NO. SB 169

NAME: Dorothy Troxler

DATE: Jan 27 1987

ADDRESS: 2403 Gharrett

PHONE: 251-2763

#5

REPRESENTING WHOM? Mother, ta[illegible] taxpayer

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU: SUPPORT? ✓ A[illegible]

COMMENTS: In the two states [illegible] with
Washington & Vermont, [illegible] has taken
an enormous [illegible]
[illegible]
[illegible]
that much money (extra) in our state [illegible]?
[illegible]
I concur with Sen [illegible]

Thank you
Dorothy T. Troxler

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 4/27/87
BILL NO. [illegible]

NAME: *Mrs. Dale Johnson* DATE: *1-27-87*

ADDRESS: *1915 Broadway Helena*

PHONE: *406-442-5916*

REPRESENTING WHOM? *Myself as [illegible] women & [illegible]*

APPEARING ON WHICH PROPOSAL: *Senate Bill #169*

DO YOU: SUPPORT? *✓* AMEND? ______ OPPOSE? ______

COMMENTS: *Insert remarks to emphasize - "Simply & [illegible] [illegible] from Ms. O'Neil in "Comparable Worth Eq."*

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. *6*

DATE *1/27/87*

BILL NO. *SB 169*

FRIDAY, JANUARY 20, 1984 WALL STREET JOURNAL

The 'Comparable Worth' Trap

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Ms. O'Neill is director of the Urban Institute's Program of Policy Research on Women's Labor Force Issues.

WOMEN'S LOBBYIST FUND
Box 1099
Helena, MT 59624
449-7917

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/27/87
BILL NO. SB 169

January 27, 1987

Testimony in opposition to SB 169

Mr. Chairman and Members of the Senate Labor and Employment Commmittee:

My name is Debra Jones. I speak to you today on behalf of the Women's Lobbyist Fund, a coalition of 39 organizations representing over 6500 individuals in Montana. The WLF opposes SB 169, which would repeal our comparable worth law. Comparable worth helps address the persistent wage gap between men and women and promotes pay equity in the workplace.

Today, Montana women earn on average 53 cents for every dollar that Montana men earn. Nationwide, the ratio is 60 cents to a dollar, and this ratio has remained fairly constant for decades.

The Equal Pay Act of 1963 mandates equal pay for equal work. However, this law addresses only a small portion of the wage gap, because women are segregated into different kinds of jobs than men. Eighty percent of all women workers are employed in 20 out of a total 427 occupations listed by the Census Bureau. Such job segregation accounts for the largest portion of the wage gap. Only one of the top ten female-dominated jobs has an average annual salary greater than $14,000. On contrast, only one of the top male-dominated jobs has an average annual salary of less than $14,000. In Montana, 43 percent of the female workforce are found in the two lowest paying occupational categories -- clerical and paraprofessional. Only 9 percent of the male workforce are found in these job categories.

The correlation between a high percentage of women in a given occupation and a low salary may have two different causes. First, women may be steered or attracted to jobs with lower skill requirements that are seen as "appropriate" for women, or to those with easy entry and easy exit so that they can meet family obligations. This situation is addressed by equal opportunity and affirmative action programs.

The second reason is that jobs dominated by women -- secretaries, nurses, food service workers, librarians -- are systematically undervalued and underpaid because they are viewed as "women's work". This situation is addressed by comparable worth.

Under a job classification system of comparable worth, female- and male-dominated jobs are evaluated with respect to factors common to all jobs. Just as apples and oranges can be compared by their caloric, vitamin, and mineral content, so can jobs be compared by factors such as skill, education, effort, responsibility, and working conditions. Prior to the comparable

worth law, Montana's classification system already required jobs to be valued based on these common factors. The comparable worth law merely adds the additional consideration that gender bias be eliminated from the classification system. Comparable worth ensures a consistent relationship between job content and pay for both sexes, and that jobs held by women do not pay less merely because they are held by women.

Per its mandate, the Department of Administration has shown progress in moving toward a standard of comparable worth in state government and narrowing the wage gap between working men and women. And they are moving toward this goal at minimal cost. In fact, in its 1985 Report to the Legislature, the DOA has shown the Montana state government classification system to be in better compliance than other states (Idaho, Minnesota) that have made considerable comparable worth adjustments.

According to the 1987 Report to the Legislature, the wage gap between male and female state employees has dropped by two percentage points (from 25 percent to 23 percent) since ~~the~~ 1985. This drop resulted from more women moving into higher paying jobs. Differences in step advances and longevity increments account for a 3 percent gap; job segregation accounts for at least a 14 percent gap; the remaining 6 percent gap is unaccounted for.

Closing the wage gap will mean higher wages for women, increased taxable income, and thus more tax revenue for the state. Repeal of the comparable worth law could jeopardize the progress we have made and would be yet another blow to state employees. The WLF urges you to give SB 169 a "do not pass" recommendation.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 7
DATE 1/27/87
BILL NO. SB 169

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON SENATE BILL 169 BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 27, 1987

My name is Jim Murry and I am here today on behalf of the Montana State AFL-CIO to express our opposition to Senate Bill 169.

In 1983, the Montana Legislature passed Senate Bill 425 which directed the Department of Administration to work towards the needed goal of establishing a standard of equal pay for work of comparable worth. This bill was an important first step in the proper direction towards establishing pay equity.

Both the Montana State AFL-CIO and the National AFL-CIO have adopted convention positions strongly supporting pay equity laws for one very significant reason: it is a matter of justice and fairness. Equal pay for equal work has always been a basic tenent of the trade union movement, but it is insufficient in achieving bona-fide pay equity because most jobs held by men and women are not identical.

Members of the Committee, the fact of the matter is that the 49 million working women in America now comprise about 55% of the total labor force. It is unconscionable that such a large segment of our workers continues to suffer from widespread wage discrimination. In 1984, working women earned 65% of the wages of their male counterparts. In dollar terms, this means that the average salary for full-time working women was $13,416 as compared with $20,800 for men.

Tragically, the wage disparities between men and women have resulted in an entrenchment of poverty among female heads of households. Between 1979 and 1985, the poverty rate of female-headed households grew by 2.2 million, or 23%. Sadly, it is the children who suffer from poverty. Female heads of households continue to struggle to support their families, yet about 45% could not keep a family of four out of poverty in 1984 without assistance. It's inexcusable that almost half of the nine million single mothers are living in poverty.

We cannot continue to accept the low-wage jobs and unemployment which cause poverty in America. Pay equity would go a long way towards redressing those gross injustices.

Mr. Chairman, a number of other states have already initiated comparable worth protection. In 1986, the American Federation of State, County and Municipal Employees, AFL-CIO, reached an historic $101 million settlement with the State of Washington over the issue of comparable worth. Clearly, Montana should not take a giant step backwards in the quest for equal rights for all our citizens.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 8
DATE 1/27/87
BILL NO. SB 169

We believe that it is important that Montana has developed a system which guarantees that all job classifications will be reviewed to assure comparable worth is built into the system. And the system's cost to the state is minimal. The fiscal note attached to Senate Bill 169 states that no new staff were added when this project was assigned to the Department of Administration. The anticipated expenditures for Fiscal Year 1989, according to the fiscal analyst's office, is only $450. Clearly, the benefits of having the Department of Administration work towards the goal of establishing a standard of equal pay for work of comparable worth far outweighs any cost-savings.

In closing, we would like to stress that in making the effort to reach pay equity and comparable worth, the impact should be positive and not negative. It should not be the goal of the state of Montana to equalize pay of equal work responsibilities by lowering the wages of workers in higher grades. It should be the goal of Montana to upgrade the wages of those workers who have comparable job responsibilities to those in the higher grades.

Mr. Chairman and Members of the Committee, the goal of comparable worth is indeed an admirable one and we urge you to vote no on Senate Bill 169.

NAME: VIRGINIA A. BRYAN DATE: 1/27/87

ADDRESS: Box 3093 Billings, MT 59103

PHONE: 406 256 0173

REPRESENTING WHOM? Women's Lobbyist Fund.

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

SB169, by its effort to repeal Montana's comparable worth statutes, will not prevent litigation in the state of Montana. Montana's experience is + has been quite different from the Washington State experience which resulted in litigation. The current legislative has resulted in a study which has pinpointed a comparable worth problem. It also mandates a continuing effort by the Department of Administration to eliminate gender or sex bias in the State's classification pay plan. A continuing good faith effort will lessen the chances of litigation being commenced against the state. The current legislation compels the state to continued to pursue that good faith effort.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Virginia A. Bryan.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 9
DATE 1/27/87
BILL NO. SB 169

NAME: R. Madison Jensen DATE: 1-27-87

ADDRESS: POB 5356 Helena, Mt 59601

PHONE: 442-1192

REPRESENTING WHOM? AFSCME, AFL-CIO

APPEARING ON WHICH PROPOSAL: SB 169

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: With 2-18-208 and 2-18-209 a part of the Montana Codes it shows the state is interested and working toward changi inequities in pay as it concerns Knowledges, skills, etc. of it's workers. [redacted] Even now ~~as~~ the state is vulnerable to law suits. I feel none have been filed because of the economic condition of the state and the state's continuing efforts through the Department of Administration's compliance of the law now in effect.

If you really want to get people angry enough to file a suit, the way to do it is to shut the door with legislation such as SB 169. IT is only when workers give up hope of continued dialogue that they turn to law suits.

Vote against SB 169

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO 10
DATE 1/27/87
BILL NO SB 169

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 11
DATE 1/27/89
BILL NO. SB 169

Montana Nurses' Association

2001 ELEVENTH AVENUE (406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

SB 169

The Montana Nurses' Association opposes SB 169 which would eliminate Montana's commitment to "equal pay for comparable worth".

Registered Nurses, as providers of nursing care twenty-four hours per day, seven days per week are constantly challenged to provide the best nursing care possible and reduce health care costs to consumers. Nurses should be fairly compensated for their efforts and the State of Montana needs to continue its commitment to equal pay for work of comparable value.

Nurses have specialized education, are skilled health care professionals, and care for all of us when needed; however, nurses more often than not, start their careers at a lower wage than men in jobs of comparable worth.

Comparable worth is not a replacement for equal pay for equal work, or for programs of upward and lateral mobility; it addresses the needs of the majority of working women who are employed in occupations predominantly female. Allowing the strict interpretation placed upon the Equal Pay Act provisions only perpetuates discrimination of the large majority of women.

It can rightfully be said that health work is women's work. Nursing, which functions at the core of all health care delivery, has been traditionally a female occupation. Through the socialization process, women as well as men tend to perceive work associated with women to be of less value than that done by men.

A 1975 report by the International Labor Conference states:

> Amost everywhere there remains a clear division of labor by sex with jobs labeled as "men's work", and "women's work". While the line of demarcation may vary with the time and place, what is significant is the persistence of distinctions based upon sex discrimination. It leads to recruitment based on sex rather than on capacity, and it perpetuates unproven beliefs about women's abilities and inabilities as workers. It creates a situation in which work traditionally done by men commands higher pay and presige while that traditionally done by women is accorded lower pay and prestige and consistently undervalued. It has no inherent logic.

The earnings gap is tto real to be ignored. There can be no economic equity for women without the principle of equal pay for work of comparable value.

The MNA, through collective bargaining, works for the principle of equal pay for comparable work; but often when nurses demand compensation that reflects their responsibilities, they are told that nurses should seek their reward in heaven.

This legislature is asking public employees to make many sacrifices during these times of budget problems -- female workers should not be required to make even greater sacrifices.

Respectfully submitted,
Eileen Robbins
January 27, 1987

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 11
DATE 1/29/87

January 27, 1987

SB 169 - Repealing the Goal of Establishing a Standard of Equal Pay for Comparable Worth

The Montana League of Women Voters is very concerned over the feminization of poverty. Establishing a standard of equal pay for comparable worth is one step in avoiding this tragedy. For these reasons the Montana League of Women Voters opposes Senate Bill 169.

Kathy

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 12
DATE 1/27/87
BILL NO. SB 169

ATTACHMENT
FOR
AMENDMENT TO SENATE BILL NO. 34

The Department has no data to determine how many individuals included in the original fiscal note would be affected by the amendment. Therefore, no new estimates are provided.

There is a technical defect with the amendment and it is as follows:

> Page 9, Section (n). This section would exclude the service performed by salaried owners or officers of a partnership, association or sole proprietorship from taxation under Chapter 39. Under current law, partners and sole proprietors are already excluded, making this language redundant. The language regarding officers or owners of an association is new, however, and would create serious problems in the administration of the chapter. There is no legal definition of "association" in this chapter, and the general legal definition of association is so broad as to include virtually every group who desires to call itself an association.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 13
DATE 1/27/87
BILL NO. SB 34

AMENDMENT TO SENATE BILL NO. 34

1. Title, line 5.
Following: "LAW"
Insert: "CERTAIN"

2. Title, line 6.
Following: "CORPORATIONS AND"
Insert: "CERTAIN"

3. Page 1, line 14.
Following: "**corporation**"
Insert: "or by an officer of a corporation owning less than 10% of the voting stock"

4. Page 9, lines 17 through 20.
Following: line 16
Strike: subsection (m) in its entirety
Insert: "(m) service performed for a corporation by a salaried officer or director who owns 10% or more of the voting stock of the corporation;

(n) service performed as a salaried owner or officer of a partnership, association, or sole proprietorship if the individual performing such service owns at least a 10% interest in the assets of the firm or business."

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SENATE LABOR & EMPLOYMENT
EXHIBIT NO. _____
DATE 1/27/87
BILL NO. SB 34