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UNEQUAL PAY FOR EQUAL WORK: THE FALLACIES OF "COMPARABLE WORTH"

(Updating Heritage Lecture No. 63, "Comparable Worth: Pay Equity or Social Engineering?" February 5, 1986.)

Proponents of "comparable worth" plan to attach a bill (S. 519) to the Continuing Resolution. If enacted by Congress, "The Federal Employee Anti-Sex-Discrimination in Compensation Act" would:

- o establish a nine-member Commission on Compensation Equity to select a consultant to study whether federal wage-setting practices are in compliance with laws prohibiting sex discrimination;

- o require the consultant to assign valuation points to different jobs as a means of ranking them and to compare the rankings to determine whether there is wage discrimination between males and females doing work of comparable skill, effort, and responsibility under similar working conditions; and

- o require the Director of the Office of Personnel Management to prepare a plan and timetable for implementing the consultant's recommendations.

It is economically senseless, and illegal as well, to deny equal pay for equal work and equal opportunity for women in hiring and promotions. It is just as senseless, however, to mandate equal pay for unequal work. And this is what S. 519 effectively will do. The bill's enactment would be viewed as congressional endorsement of the doctrine of comparable worth. This would send a new and confusing message to the courts regarding the intent of Congress in the case of existing antidiscrimination laws, such as the Equal Pay Act of 1963, and Title VII of the Civil Rights Act of 1964. The legislative history of the Equal Pay Act, for instance, reveals that Congress has explicitly rejected comparable worth as an aspect of pay equity.

Most federal judges, together with the Department of Justice, the Equal Employment Opportunity Commission, and the U.S. Commission on Civil Rights, have rejected comparable worth evaluations as a valid way to identify sex-based wage discrimination. And the General

Accounting Office has expressed serious reservations about even conducting a federal comparable worth study, noting that comparing the value of different jobs is inherently a subjective exercise. Moreover, Title VII of the Civil Rights Act of 1964 sensibly requires a demonstration of intentional discrimination--that is, an employer must be shown to be setting the wages in a female-dominated job below the market rate because of gender. The total disregard in the comparable worth legislation for this "intent" requirement renders it extremely confusing as a legal doctrine.

Basing a decision concerning wage discrimination among dissimilar jobs on a consultant's opinion, rather than the marketplace, is to ignore the law of supply and demand as well as any semblance of objectivity. The consultant is to determine a job's worth by assigning weighted values based on skill, effort, responsibility, and working conditions, then totaling the points for each job. Jobs with the same total, even if very different in nature, would be defined as of comparable worth to be paid at the same rate. Yet this supposedly objective system of job evaluation is in fact subjective because a person, the consultant, would make personal decisions as to the relative significance of each factor. And with a different consultant, discrimination would disappear in one set of jobs and appear in another. This has happened when states have sought to establish a scale of job evaluations. In the Fall 1986 Policy Review, Richard Burr, an analyst with the Center for the Study of American Business, notes that a secretary would be ranked first among three jobs in Washington State and Iowa, but last in Minnesota and Vermont. Clearly, comparable worth is a concept riddled with flaws and contradictions.

If wages in America were to be evaluated and ordered by a new layer of bureaucracy, the result would be artificial wage differentials, leading to shortages of workers in some occupations, surpluses in others, and a boost in total unemployment. In the real world, the wage differential between jobs reflects the value that employers place on the contributions of different groups of workers to the final product, together with the scarcity of qualified workers relative to the demand for their contributions. Only supply and demand can determine value.

The tools best suited to prevent sex-based wage discrimination are those that have been used effectively over the past twenty years, chiefly Title VII, which guarantees women an equal opportunity to compete for jobs traditionally dominated by men, and the Equal Pay Act, which enforces the principle of equal pay for equal work. These laws improve the operation of the labor market by promoting the free flow of workers to the jobs where they can be most productive. Comparable worth would abandon this sound approach, substituting the judgments of an army of highly subjective bureaucrats for those determined objectively by the free market.

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