

**Conflict, Consensus, and Opportunity: Congress  
and the Development of the American Welfare  
State**

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# Dedication

To Greta Simons.

## Abstract

My dissertation examines how public policies that do not generate strong interest group or public support develop over time. Much of the recent policy feedback literature emphasizes the importance of developing support among interest groups or creating new constituencies to support a program. Programs that develop these exogenous supports are more resistant to retrenchment and may be easier to expand while programs that do not are harder to expand and more easily retrenched. My dissertation, which is two in-depth case studies of the Earned Income Tax Credit (EITC) and the federal minimum wage, finds that exogenous support is not always central to ensuring a program's long term durability. In the case of the EITC, bipartisan support for the program among members of Congress was sufficient to make the program permanent and index it to inflation. This suggests that if the right conditions are met within Congress, exogenous support is less important. In the case of the federal minimum wage, I argue that while exogenous support for the wage eventually developed, it was not strong enough to overcome the inegalitarian program design in part, because that support was partisan in nature. This suggests that generating exogenous support is not always sufficient when thinking about how to expand a program.

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# Chapter 1

## Introduction

### 1.1 Introduction

In recent years it has been persuasively argued that the United States has a distinct form of welfare state that relies more on tax breaks for employers than traditional, in kind, cash or goods transfers. For instance, it has been widely reported that the home mortgage interest deduction results in lost tax revenues in the hundreds of billions of dollars ([Mettler 2011](#)). More generally, the loss of federal tax revenue to these programs was around 1.1 trillion dollars in 2017. Combined with spending on “traditional” social programs, this leaves the country in a situation where we have multiple types of policies for dealing with public policy problems. One of the most famous examples of this is health policy. The federal government created untaxed employer provided health insurance, which encouraged firms to provide health insurance as a benefit in lieu of wage increases and in turn, created a situation where employer provided health insurance is central and federal health care programs are periphery ([Hacker and Pierson 2002](#)). The traditional health care programs that did spring up such as Medicaid and Medicare are primarily designed for people who are not in the work force. What we see is a health care policy that relies mostly on tax incentives, but also has a large traditional expenditure for health programs for certain citizens as well.

To that end, the United States has a situation where multiple policy strategies are pursued within a single policy area. One part of the welfare state that the United States has developed is an array of public policies designed to support wages. In general, there are three strategies that the federal government has pursued to boost wages; cash assistance, a wage floor, and a wage subsidy. Respectively called; welfare, the minimum wage, and the Earned Income Tax Credit.

## 1.2 Overview of Cases

The first of these three, cash assistance, is generally considered the most controversial of the three strategies. In the most basic sense, people with income under a given threshold are provided a stipend from some government authority. In the United States, the history of welfare both politically and provisionally, is much more complicated. It has been used punitively against many of the people it was designed to help as it was designed in such a way to allow local authorities to target benefits away from certain people. One of the most controversial aspects of the program in the United States is that it has historically had the unintended consequence of encouraging recipients to disengage from the labor market because if they make more than the eligibility cut off level, they cease to receive the benefit. In effect, it replaces privately funded wages with government money.

The other two programs mentioned, a wage floor and a wage subsidy are different in a number of ways, but perhaps the most important is that only workers can receive the benefit. If cash assistance was originally intended as something poor folks could get if they were poor enough, both the wage floor and wage subsidy have the distinct difference that participation in the workforce is mandatory to receive the benefits. To that end, the creation and development of income assistance policies that implicitly mandate market participation versus those that do not (or at least did not) are quite different.

Specifically in the United States, our wage subsidy program is manifested

within The Earned Income Tax Credit (EITC) and is one of the largest federal expenditures in terms of social spending. In 2015, around 28 million Americans received the EITC and it resulted in around 25 billion dollars in lost revenue. The only other non entitlement social program that spent more or went to more people was the Supplemental Nutrition Assistance Program (SNAP or what used to be called food stamps). There are several unique features about the EITC program that shapes how it works. First, the benefits structure is determined by a phase in, plateau, and phase out relationship between income and benefits. That is, for those people with lower incomes, the rate of benefit increase is higher, but when you reach middle low incomes, the benefit is stable as income increases, and after you have reached middle incomes, the rate of decline of benefits slowly phases out. In many ways, this reduces the impact of perverse incentive traps that plague other social programs where a program will cease paying benefits after a certain income threshold. Second, it is a tax credit (one of the few tax credits for low income people), so the benefit comes through a tax break, but it is unique because it is a refundable tax credit one of the only ones in the federal income tax code. That means that even after you have reduced your tax bill, if you have more benefits coming, the IRS will cut you a check for the rest. A third trait is that because it is a tax credit, it constitutes the “hidden” (Howard 1997) or “submerged” state (Mettler 2011). There are a lot of traits associated with these programs, but most importantly for my purposes is that for much of the program’s life, it is relatively non salient to legislators, interest groups, and citizens compared to non-hidden programs such as Social Security.

The federal wage floor program is manifested within something called the minimum wage, which forces employers to pay their workers (often times with some restrictions on who counts as a ‘worker’) a basic salary. Over the development of the program, two major contours were salient for most of the time: generosity and eligibility. The minimum wage was created in a way that was originally much lower and exclusive than intended. Since its inception in 1935, wage advocates have worked to raise the dollar amount that constituted the wage floor (as in, no

employer could pay less than X dollars per hour), but also to expand the number of people who received the wage protections. In fights concerning creating and expanding both of these provisions, the conflict was visceral, multi-faceted, and deep. At the inception of the program, the two major union confederations in the country were heavily involved in splitting Democratic Members of Congress up along conservative and liberal labor lines over if there should even be a wage at all, and after that, what constitutes a wage floor. Additionally, it pitted Northern Democrats against Southern Democrats over how many and which types of people to include, significantly strengthening the New Deal Coalition. It also proved very difficult to trade over the issue of the wages, as in, perhaps giving some state a subsidy for something in return for that state's votes. The effect of this was to have a politics of creation that divided along ideological lines more than anything else.

### 1.3 Questions & Frameworks

In thinking about the development of the Minimum Wage and the Earned Income Tax Credit, this dissertation focuses on three related questions. The first question is how do the politics of these two policies work? This is a fundamental question that is implicitly descriptive. What are the interesting factors that emerged during the creation of the programs and subsequent development?

The second question is do the political dynamics surrounding these two wage support policies differ, and if so, how? As I have described, both a wage floor and wage subsidy are feasibly within the same class of social program, but do the political differences between the programs outweigh the similarities? I will argue that they do, though significant similarities exist and are still developing. Further, I will suggest that that differences in the EITC compared to the Minimum Wage can be thought of as reflecting two different understandings of how politics unfolds. That is, the creation and development of the EITC can be well understood by thinking of it as the result of 'Downsian politics, or a policy that

has been created through conventional understandings of politics that emphasize veto points and pivotal legislators. In contrast, the creation and development can be well understood by thinking of it as the result of an ‘organized combat’ style of politics or a policy that has been created through interest groups pressures, a deeper sense of policy as the ultimate prize of victory, and parties as collections of ‘intense policy demanders.’

The third question is how do differences and similarities in the political dynamics affect the scope and coverage of the two programs? In short, I suggest that provisions in the creation and development of the EITC reflect what seemed possible according to ‘Downsian’ traits such as the pivotal member, and the relative and changing influence of committee chairs versus other Congressional institutions such as party leadership. In other words, the provisions of the policy were largely ‘outputs’ given the feasibility of the situation. EITC conflicts were largely non-ideological until recently and did not often have lasting political anger associated with them. Conversely, the provisions of the minimum wage reflect a deeper understanding of relevant actors in the ability of policies to affect long term development by trying to keep the wage ineffective and the coverage low.

### **1.3.1 Frameworks**

In thinking about these questions, [Hacker and Pierson \(2014\)](#) lay two frameworks to understanding politics today. The first is focused on politics as organized combat and the second is thinking about politics as a ‘Downsian’ framework. In general, a Downsian framework, sometimes referenced as a ‘master’ theory is the base theory many political scientists think of when writing about politics. It is the sort of politics where political parties move towards the median voter so they can win elections. In other words, it is the politics where politicians adjust their platforms to appease more voters so they can better compete. It is also the politics that emphasizes a parsimonious set of rules for how politics unfolds. Many times this takes the form of spatial or formal modeling, but in general



might emphasize things like the median voter (both in legislators and voters), veto points, or different “pivotal” people, such as the 60th Senator.

Hacker and Pierson propose a different way of understanding politics that incorporates many of the lessons from the Downsian framework, but then recenter different parts or bring in elements that are not usually present. This ‘organized combat’ (also called a ‘policy focused approach’) model of politics does not seek a parsimonious set of rules to explain politics, but instead tries to create an explanatory story no matter how expansive it may be. Among the many differences, two arise as perhaps the biggest. The first is that policies are absolutely central to this understanding. For instance, they write that “a policy-focused approach sides with the Downsian perspective in stressing the rules of the political game. It parts ways, however, in emphasizing that many of the central rules are set not by formal institutions, but by the extensive policy arrangements associated with modern governance. This has significant implications, but underlines the importance of things like path dependence, policy drift, and lock-in. They also argue that policy outcomes are the central goal of politics and actors are actively seeking to win elections or other political conflict in order to influence policy. This is very different from the Downsian perspective where policy is a secondary factor and where it is relevant, it is only relevant for politicians to ‘adjust their policy stances to win elections. The second major factor that arises is the importance of interest groups or otherwise outside actors. In the Downsian model, there is a fairly tight relationship between voters and legislators. An organized combat model centralizes interest groups as potential actors fighting for policy outcomes alongside or through legislators independently of voters. It also allows for an interest based conception (see [Bawn et al. \(2012\)](#)) where political parties are a collection of interests that come together to more efficiently solve collective action problems. This coalition based view of parties implies that specific interests within the parties may have significant disputes with other parts of the coalitions and may not necessarily feel strong attachments of loyalty to the party in a given policy dispute.

A mixed option exists that is compatible with the intent of the Hacker and Pierson framework where some policies have traits more closely associated with one school of thought and other policies have traits associated with other schools of thought. One benefit of working with two different policies is that we can use the two frameworks described not only to understand the politics of a given policy, but also to think of differences across the policies through differences across the political frameworks. There are both descriptive and explanatory benefits to such a strategy.

### **1.3.2 A Congress Centric Twist**

Building off the Downsian vs Policy Focused or Organized Combat framework, this dissertation takes a Congress centric view towards understanding differences in politics between the Minimum Wage and EITC. While ([Hacker and Pierson 2014](#), pg. 1) note that “[i]n the Downsian map, voters and politicians occupied the foreground, interacting in an environment defined by a set of electoral and legislative rules,” they do not discount the idea that the politics of organized combat can and does occur within a legislative arena. I examine the development of the two policies through the lens of the Hacker and Pierson framework, but almost exclusively within the realm of Congress. There are two major benefits to using this strategy. The first is that historically oriented political science has not relied on Congress enough and the second is that Congress itself is a moving set of norms, rules, and institutions that can have an impact on how policies are created or shaped that changes as Congress evolves.

First, as Katznelson and Lapinski have persuasively written, historically minded political scientists have not given the same amount of attention to the role of Congress in the policy-making process as they have to bureaucracies or the President ([Katznelson and Lapinski 2006](#), [Katznelson 2013](#), [Lapinski 2013](#)). To be clear, Congress is a part of the story in other literature, but it is often used as an

intermediary step, usually to describe how they empowered bureaucrats to protect a policy or they were responsive to certain group interests. As such, while it seems obvious that Congress affects policy making, it has not received the level of attention its apparent centrality deserves. A careful and historically minded analysis of public policy development should pay attention to the evolution of Congressional institutions and its membership and the link between the two.

Second, oftentimes policy oriented political scientist scholars focus on how the policy reform effort itself impacts institutions, but for the most part we do not see forceful descriptions of how the changing distribution of power in Congress structured policy enactments and subsequent reform battles and the potential impact that structuring has on policy creation and development. Moreover, while some quantitative work about policy development focuses on congressional coalitions (Poole and Rosenthal 1997), these coalitions are not independent of broader Congressional politics. By not incorporating Congressional politics, we are potentially missing key information about the motivations of members.

Specifically to this project and in trying to understand the political forces that contributed to the creation and development of wage support policies in the United States, the Congressional factors that I focus on are Congressional organization and coalition politics. With respect to Congressional organization, different organizational schemes of Congress result in different distributions in power, which has implications for which members have more power vis-a-vie other members. As Rohde (1991) persuasively shows, the power dynamic in Congress has shifted aggressively in the last 60 years. Prior to the reforms of the 1970s, committee chairmen wielded near absolute power over the legislative process, but by the early 1990s, their power was a shadow of its former self. (Schickler, Mcghee and Sides 2003, pg. 321) add, “[t]he reforms of the 1970s empowered both rank-and-file members and party leaders, creating a partially contradictory combination of institutions.” In fact, committees had been brought under the oversight of the caucus and caucus leadership, and serious committee deliberation was far less important than having approval from the party and party leadership. Despite the

reform Congresses weakening the Chairs happening in the 1970s, we only see the situation [Schickler, Mcghee and Sides \(2003\)](#) described begin to have a tangible impact on policy in the modern era, usually described as the early 1990s forward ([Sinclair 1999](#)). The extent to which the rank and file members of the majority parties empower their leadership is an ongoing battle, but a key development is that power rests within the membership of Congressional majority party and leaders are extensions of that situation.

The changes in who is empowered within Congress play out in two ways. The first is who is viewed as the ‘important member. Often called the ‘median member, a significant body of literature has built canonical theories around this concept([Krehbiel 1992](#), [Cox and McCubbins 2005](#)). In different theories of Congressional organization, different median members are emphasized. For instance, in the informational theory, the median member on a given committee is often thought of as one of the most important actors because, in this theory, committee bills are given deference on the chamber floor due to the informational advantage the committee has about issues under its jurisdiction. The second is the amount of strength given to leadership relative to committee chairs or the rank and file impacts the ideological distribution of bills pursued. Where leadership is empowered at the expense of rank and file (by their own choice), we see stronger centralized leadership at the expense of committees and legislation reflects that. Conversely, there are situations in Congressional history where committee chairs are empowered relative to centralized leadership and we see more variance across bills according to which committee they came from.

Another component of the Congressional organization story that is analytically useful in assessing the development of these two programs is the changing role of the House Rules Committee and the ability of a floor majority to beat them. The House Rules Committee has been an important part of how floor conflict proceeds during the creation and development of the two programs assessed here. Especially during the first 25 years of the minimum wage, conflict between the House Rules Committee and pro-wage advocates acted as one of the central fault

lines in attempts to expand the minimum wage. To that end, this work builds on the findings of historical research concerning the role of the Rules Committee relative to other aspects of Congress. For instance, the case of the discharge petition used to eject the Fair Labor Standards Act from the Rules Committee had disproportionately Northern Democratic signatures and those ‘not benefited from the committee system. This lends further credence to the notion that the Rules Committee during this time was not an agent of the majority (Schickler and Pearson 2009, Pearson and Schickler 2009).

The last major part of the Congressional twist in thinking about the similarities and differences between the EITC and minimum wage focuses on the changing nature of supportive and oppositional coalitions. We know that the Democratic Party in Congress has become much more liberal and homogeneous over the years, and the same is true for the Republicans only replace liberal with conservative. The original minimum wage enactment coalition was essentially only FDR and/or liberal Democrats, while the opposition consisted of Republicans and Southern Democrats. In other words, there was a partisan supportive coalition and a bipartisan opposition coalition. Over time this conflict lost its bipartisan nature and became truly partisan. Conversely, the EITC started out with a bipartisan supportive coalition and a bipartisan opposition coalition and over time, became much more partisan. It is still moderately bipartisan, but not as much as it was in previous times.

## **1.4 Applying Different Political Understandings to the Cases**

This dissertation is organized in two parts. The first two substantive chapters focus on the enactments of the two policies, while the second two focus on a policy’s development. As I mentioned earlier, I suggest that there are significant differences between the creation of the EITC and the minimum wage as well as

development of the two programs as well.

With respect to the creation stories, I suggest there are three key differences between the creation of the EITC and the minimum wage. The first is that the shape, substance, and power of the advocacy and opposition coalitions across the two policies are dramatically different. The second is that the Congressional organization surrounding the enactment conflicts differed, allowing much more non-Congressional influence during the wage enactment than the EITC enactment. The third is that the outcomes concerning policy provisions reflect different pressures – wage provisions were shaped by significant ideological conflict between unions, Republicans, and Southern Democrats while the EITC provisions reflect the preferences of a tightly knit and secretive committee without much, if any, conflict.

In terms of coalition differences, the wage coalitions were much more aligned with organized interests outside of Congress compared to EITC coalitions which had no outside groups pressuring them. The wage conflict had three major groups, all of which were part of the New Deal Coalition, who were fighting over the contours of the minimum wage – the American Federation of Labor, the Congress of Industrial Organization, and southern Democrats. Each group wanted something – or was an intense policy demander – and each group had their own sets of resources or potential punishments in trying to meet their demands. This idea of policy demanders as policy coalitions also applied to those opposing the wage as well. Conversely, the coalitions involved in the passage of the EITC were not strong policy demanders, but instead were focused on creating incremental policy that was passed with minimal conflict. In that way, they were focused much more on cohesion and not deeply ideological fights like the wage coalitions were. Another significant difference in terms of coalitions is that opposition to the minimum wage among the conservative southern Democrats was significantly underwritten by racial animosity towards African Americans – and as [Schickler \(2016\)](#) argues, this was perhaps the glue that bound the conservative coalition together. This was not the case for the EITCs enacting coalition.

In thinking about the organizational differences across the enactments, both were created in an environment that privileged committees, but the wage enactment overcame significant opposition in key Congressional committees to force significant floor conflict over provisions, while the EITC harnessed the power of committees and deference to develop their legislation and tie it to must pass legislation. For instance, the House Rules Committee was a significant barrier to enacting the minimum wage, but was not an important consideration for the enactment of the EITC. In effect, while Congress had started deemphasizing the power of committees during the enactment of the EITC, the process that produced that policy was more emblematic of what some people call the Textbook Congress than the federal minimum wage enactment.

Closely related to the politics of organization differences is the nature of policy provision outcomes, the pressure environment that forged the actual provisions within the policy were quite different. The policy process that forged the minimum wage focused on philosophical differences between the nature of unions and the nature of southern racial economy versus northern economies. It had significant outside influence by organized interests threatening to start a new Labor Party, or pull support from certain opponents. It used several unique and Congressional procedures like discharge petitions and the whole ordeal was extremely public. The provisions that won out reflect a very contentious policy process with significant compromise by everyone involved. The policy process that generated the EITC was deeply submerged and 'hidden.' A Senate committee, which rarely held open hearings and spoke in code when they did, designed the program and attached it to a very important, but unrelated piece of legislation. There was no floor debate about the EITC provisions specifically and no one really questioned the enactment of the program. To that end, it is not always the case that organizations are those who care most about policy. At least during the creation, this helps explain the EITC. The lack of organized interests in constructing the EITC, allows for the centrality of political factors associated with the Downsian framework to remain important on their own.

While the enactment of the two programs had different factors that shaped the policies, as the programs developed, the factors that surrounded them evolved to be more similar over time. More simply, while they retained certain differences they converged in many factors. As such, the development of the EITC and the minimum wage suggest that the politics of the two programs have converged in many ways relative to their divergent enactments. This is especially clear in three ways. The first is that the advocacy and oppositional coalitions surrounding both policies became much more partisan. Second is that the key members in Congress who are relevant to the outcome of a given expansion conflict converged. The third is the salience of the two programs became more equalized than they had been at the enactment.

Both the EITC and the Minimum Wage became much more partisan in terms of coalitions as time went on. While the opposition for the minimum wage was bipartisan and the support for the EITC was as well, this slowly eroded away over time. As Southern Democrats floated away and or joined the Republicans, the bipartisan nature of both oppositional and advocacy coalitions in terms of the minimum wage became much more partisan. Likewise, for the EITC as well, as parties sorted into the 1980s and 1990s, Democrats became much more likely to be the advocates for the EITC – though the program is still more bipartisan than the wage. Additionally, the nature of the conflict over the programs also became much more partisan in terms of high stakes political fights as well. In the 1990s and 2000s especially, Congressional Democrats waged extremely high-stakes battles over the minimum wage by trying to attach an increase to the ‘must pass’ Iraq War funding legislation or by attaching a wage increase amendment to every senate bill that reached the floor. In fact, some commentators believe that Senate Majority Leader Bob Dole resigned from the Senate to focus on running for Presidency because Senate liberals made it look like he could not control the Congress.

The important actors in a given legislative fight also converged across each



policy as well. Against the moving backdrop of Congressional evolution, the importance of committees to determining policy outcomes with respect to the EITC and minimum wage ebbed and the importance of floor medians and party medians became much more important. For instance, while the Rules Committee median member was an important early actor in the opposition of the minimum wage, eventually the key opponent actor became a floor actor not a committee actor. Conversely, while the Senate Finance Committee was an important collective set of actors in enacting and advancing the EITC, over time, the burden of defending and expanding programs moved to the floor and the party. In both cases, the role of committees has waned in importance while the role of parties and floor actors have increased.

Lastly, while the politics of the minimum wage were never overly submerged, the politics of the EITC became much less submerged as the program was expanded. By the time the two programs reached recent times, they have both become highly salient during broader conversations about wage support. One of the consequences of this is that as the submerged process that had created and been present at the early stages of the EITC became much more public, the two policies became to occupy the same agenda space for both parties. Specifically, the two programs came to be linked with one another by both Republicans and Democrats where Republicans would suggest an EITC increase instead of a minimum wage increase and Democrats would pair the two together.

## 1.5 Roadmap & Conclusion

In making these arguments, the dissertation unfolds with the first two two chapters set on enactments and next two chapters on development. A given chapter within a given set will set out to make the case that it is either different or similar to its partner case in the same set. Additionally, each chapter relies on archival records, voting records (where relevant), and visualizations of coalitions. As I have suggested, I rely on public policy, political history, and Congressional literature

in making my arguments. In making these arguments, I hope to mostly speak to scholars who are seeking to apply “policy centric” understandings to how public policies develop over time.

## Chapter 2

# Congress and the Creation of the Federal Minimum Wage: Committee Power, Split Labor, and the Southern Cage

In 1938, the United States passed the first permanent federal minimum wage law. It was not an overly generous law in terms of a wage floor and with only twenty percent of the country being eligible for wage coverage, but this was the law passed at the height of the New Deal period and with Democratic super majorities in both chambers of Congress. The passage of the legislation, which was President Roosevelt's main domestic priority, was fraught with difficulty and Congress changed the bill significantly from what the administration had designed. What explains the difficulty Roosevelt faced with getting his wage bill through an overwhelmingly Democratic congress?

In this chapter, I analyze the politics of the federal minimum wage's enactment in 1938. In doing this, I highlight the role of two major interests and their respective institutional strengths at the time in constructing the law that was passed. To this end I focus on a divided labor constituency and the 'southern

cage' or southern conservative Democrats in controlling the legislative process and the bill. More specifically, I show that the enacted minimum wage program reflected the strength of southern Democrats who controlled important committees and remained a steady opposition block during floor politics, as well as a divided labor constituency. In turn, the combination of these splits – one regional and one more philosophical – in the Democratic Party, allowed bill opponents to extract conservative changes to the bill in defiance of Roosevelt's intent.

The specific provisional battlefields for these divides to play out on differed across the relevant interests, more easily allowing opponents to vote strategically. More precisely, the bulk of the southern delegations were very concerned with retaining the racial-economic status quo while the divide amongst labor mostly came down to questions of administration. In effect, this allowed those who were most opposed to vote on the side that would harm the bill the most several times, but also allowed the AFL to vote with the numerically superior bill supporters if they chose as well. In terms of the southerners, the Roosevelt administration designed a minimum wage bill that tried to account for economic and southern concerns by excluding certain industries from coverage, but southern Members of Congress (MCs) strongly opposed the legislation. This mostly manifested itself in the first session of Congress where these interests used their prominent places on the House Rules Committee to not grant the bill a special rule, blocking it from consideration, and in the special session by voting with AFL supporters to recommit the legislation back to the House Labor Committee.

While southern interests were focused on coverage provisions, the divided labor constituency further split the Democratic Party on questions of how the minimum wage should be administered. Of the two most powerful confederations, the Congress of Industrial Organizations (CIO) was strongly in favor of the legislation and union leadership helped draft the legislation, while the American Federation of Labor (AFL) initially questioned the need for a federal minimum wage at all. In the second session of Congress, AFL loyalists were able to outright defeat the legislation once for being too close to CIO interests and not close enough to AFL

interests. In the third session, the AFL allies worked to eliminate almost all administrative wage setting discretion given to bureaucrats in conjunction with writing a minimum wage into the federal statute, ensuring that future changes would need Congressional approval. Almost totally acquiescing to the AFL divide healed the labor divide and allowed the bill to pass.

By constructing such an argument, I suggest that the enactment reflects a politics of organized combat (Hacker and Pierson 2014) and has significant differences from the enactment of the EITC. One of these difference is that the prominence of organized interests exerting pressure on their respective allies within Congress suggests an ‘expansive’ fight not purely beholden to the Congressional arena (Schattschneider 1960). The intra-Congressional coalition dynamics suggest a medium sized advocacy coalition, a small opposition coalition and a large swing coalition, its breakdown a reflection of at the moment political developments. There was no static ‘median member’ to appeal to, during the wage conflict. A second difference is that the power of those in the conflict was much less consistent across the legislative process than in the EITC, with some having power at some stages and others having more power at different stages. A third difference is that the politics of policy mechanism was much more controversial than that used in the EITC, resulting in a high tension situation with significant maneuvering to weaken the impact of the wage floor regulation. Together, the coalition and institutional dynamics of the minimum wage enactment suggest a political process more aligned with an organized warfare framework than the ‘Downsian’ politics associated with the EITC.

In this chapter, I briefly discuss how early attempts at creating a minimum wage shaped the calculations made by wage advocates during the conflict over the federal minimum wage as part of the Fair Labor Standards Act of 1938. Following that, I pivot to discuss the nature of the major interests present during the enactment. Lastly, I show how these factors came together during the three sessions of the 75th Congress to dramatically shape the minimum wage’s provisions.

## 2.1 Historical Context and Early Hurdles to a Minimum Wage

This section highlights the role of the Supreme Court in hindering early state and federal wage floors and introduces the underlying reason why parts of organized labor was skeptical of federal wage protections. While Congressional considerations become the most important factor for minimum wage conflict in the mid 1930s, there were earlier battles to enact a wage floor on the state level that are worth considering. Briefly discussing these events helps highlight the lessons that shaped President Roosevelt's original minimum wage legislation in addition to showing why Labor was such a divided constituency.

In the decades prior to the federalization of minimum wage politics, several states enacted minimum wage laws of varying types and they were consistently struck down by the U.S. Supreme Court. During this time the Supreme Court was still in the midst the Lochner Era. The Lochner Era was characterized by a focus on the 'Liberty of Contract', which was the right of Americans to sell their labor and businesses to hire it without constraints. To the Justices on the Supreme Court engaging in this project, the Liberty of Contract had taken the level of natural right, on par with that of assembly and speech. Throughout the Lochner Era, the Court struck down several state-level consumer and protection laws based on this doctrine.

The Supreme Court applied this standard on the federal level too, striking down the National Industrial Recovery Act (NIRA) which was designed to raise prices and allowed the setting of industry specific wage floors. The NIRA allowed for government committees set up to work with business to set industrial codes of 'fair competition' that almost always included some form of wage floor. This is an important development in terms of federal minimum wage politics as it allowed for the possibility that each industry had a different minimum wage and was subject to private-public considerations. During the FLSA debates, the AFL strongly fought against setting up the later version of the minimum wage in the same way.

The act of the Court striking down the NIRA reinforced the notion that minimum wage laws on any level would need to be designed in such a way to survive a Court challenge. This was especially the case considering the NIRA was the center of the early New Deal and for the Supreme Court to so aggressively attack President Roosevelt's agenda with massive Congressional majorities meant that the Court was serious about exercising its prerogatives.

In addition to the Supreme Court showing itself as an important hostile actor, the American Federation of Labor (AFL) was skeptical of early wage floors as well.<sup>1</sup> AFL leaders, including founder Samuel Gompers, had spoken out in the early 20th century as being a fierce critic of wage floors for two main reasons (Horowitz 1978). The first is that he feared that the 'State' would supplant the 'Union' as the main protector of workers' rights. The AFL was motivated in this regard by both wanting to expand the power of the labor movement, but also to ensure that those sympathetic to the movement were in control. Government control of working conditions, let alone wages, undermined that effort. Second, they were also motivated by a fear that government guaranteed wage floors would become wage ceilings. Either way, government interference with working conditions and wages, they feared, would lead to a loss of control over the process at best, and a regression in working conditions at worst. Therefore, the AFL focused largely on ensuring that as many workers as possible were covered by collective bargaining agreements and any government policy that offered protections outside of collective bargaining agreements undermined the union effort.

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<sup>1</sup>It was not until the 1930s where the formal split in labor occurred, so labor's impact on earlier wage politics was AFL dominated.

## 2.2 The Federalization of Federal Wage Floor Conflicts

With the rise of the New Deal and a new economic agenda, these earlier events became important background considerations for the administration. Labor Secretary Francis Perkins wrote two related bills with the help of CIO co-founder Sidney Hillman to regulate working hours and wages in the United States. The first, which was enacted in 1936, required government contractors to pay a ‘prevailing wage’ to their workers (The Public Contracts Act of 1936). The second bill, which Perkins warned Roosevelt might be unconstitutional, was the general outline for the FLSA which is the vehicle for a federal wage floor discussed in this chapter (Perkins 1948).<sup>2</sup>

The federal wage and hour bill would prove to be one of the most consequential of the 20th century. It engaged northern versus southern interests, highlighted labor divisions, and strained the New Deal coalition so much that some scholars have argued that the FLSA provoked the rise of the Conservative Coalition (Patterson 1967, Sinclair 1978). For the remainder of this section, I will discuss the way that the two most influential interests focused on the provisions of the bill and how they leveraged their power to implement those interests. The administration’s legislation called for: (1) a 40 (but no higher than 80) cent minimum wage, (2) the establishment of a Labor Standards Board, which had the ability to set wages above the .40 level in different industries and the ability to appoint sub-boards to consider the circumstances in industries before setting hours / wages, (3) A 40 hour work week, and (4) a prohibition of the interstate transfer of goods produced with “oppressive child labor.” The bill also exempted several occupational categories such as professionals, executives, managers, agricultural

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<sup>2</sup>Secretary Perkins only accepted the Labor Secretary nomination on the condition that she was able to push legislation advocating for a minimum wage, a lower working week, and the abolishment of child labor. When the President agreed, she asked if he was concerned that such a platform would be unconstitutional and he replied that “Well, we can work out something when the time comes” (Perkins 1948, ch. 12).



and retail workers (Douglas and Hackman 1938).

### 2.2.1 Nature of Interests in the Conflict

In thinking about how Congress enacts legislation, political scientists in the historical tradition often times rely very heavily on discussing ‘interests.’ While that is an important part of understanding the legislative process, an equally important part is the mechanisms through which those interests use power. The first of those two interests, organized labor, developed their ideological positions and strategies from the long conflict over the wage regulation in the states, while the second group, southern Democrats, wished to preserve the southern political economy. A summary of relevant wage related issues and the relevant positions by an interest can be found in table 2.3.<sup>3</sup>

#### Organized Labor

Organized labor was the first major group to impact the federal minimum wage. The labor movement during the lead up to and the debate over, the FLSA, was a multifaceted and divided constituency. In the broadest terms, the two major unions at the time were largely on opposite sides of the wage debate, with the AFL opposing much of the administration’s efforts to regulate hours and wages and the Congress of Industrial Organizations (CIO) supporting them. The unions

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<sup>3</sup>Careful readers may note that there is a distinct lack of business interest discussion in this section and chapter. While the impact of Business interests and the conflict amongst them is well developed in literature concerning New Deal politics (e.g. Hacker and Pierson (2002)), I focus on the combination of a divided labor constituency combined with Southern Democrats. I make this decision for two reasons. The first is that the major impact of business, on its own, took place during the agenda setting process (Waltman 2000, ch. 2). Many commentators at the time pointed out that Business knew they were going to face regulations so it was a matter of blunting the impact with limited support in Congress (Golding 1941, pg. 1145). The second reason is that all victories business won in Congress were because of Southern Democratic defections, choosing to align with Republicans instead. As I will discuss, Southern Democrats had their own set of motivations which were distinct from business interests, even if the result was the same. This is to say that business may have won some victories, but they were facilitated by different actors.

within the AFL and the CIO consolidated around their respective positions on the wage because they tapped very different groups of workers.

One of the most important underlying differences between the AFL and the CIO is that the AFL sought to represent ‘craft laborers’ and the CIO sought to represent ‘industrial laborers.’ A craft union is organized by skill while an industrial union seeks to organize the entire industry into one union. A craft union conception would organize each distinct part of the clothes making process into its own union, while an industrial conception would organize all clothes makers into one big union. This split reflected different philosophies on how best to advance the labor movement ([Horowitz 1978](#), [Samuel 2000](#)).

The conflict between industrial and craft unionization was at the heart of the divide between the two groups. The AFL viewed the skill divide as the best way to ensure the highest amount of compensation for each tract of workers. Someone with a job requiring more skill can demand more money than someone with a job requiring less skill, so by representing mostly highly skilled trades, AFL unions were able to negotiate higher wages for their workers. At the other end, the CIO unions had the philosophy that solidarity was at the heart of the labor movement and that incorporating as many people as possible into the movement was the best way to ensure workers had enough clout and power to expand and protect worker’s rights.

These differences explain how the two major organized unions developed their positions on the wage legislation. Consequently, the AFL was largely opposed to major sections of the legislative effort because of their focus on skilled labor and continued skepticism toward government labor regulation.<sup>4</sup> For instance, they remained skeptical of government interference in the wage market as the extension of protections to unskilled workers might increase competition for their

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<sup>4</sup>The exclusivity shown by the AFL with respect to high skill workers existed with respect to race as well. The AFL did not generally represent African-American workers, while the CIO did. This was partly due to the fact that there were very few African American skilled workers, but there is some evidence to suggest that the AFL bureaucracy went out of their way to keep African Americans out ([Hill 1996](#))

own members. In many ways, the AFL was focused on trying to preserve its long term power. By focusing on areas such as reducing the bureaucratic apparatus of the program and trying to limit who received government protections, they allowed the more unified opposition coalition to peel off votes and weaken the legislation.

Conversely, the CIO was largely supportive of the New Deal Agenda and mostly in favor of the FLSA. They were not distrustful of government interference and viewed it as a way to turn labor interests into federal law. More specifically, the CIO felt that the federal capture of labor law by the unions was a goal worth pursuing. Additionally, they believed that a federally mandated wage would raise the wage for their own workers because they represented low paid people. They also believed that by protecting workers through federal legislation, it would make it easier for those who were not part of the labor movement to get a decent well paying Union job, which would expand the size of the movement over time.

In fact, the CIO's support for a federal wage and for the Roosevelt agenda more broadly, was one of the major causes of the original split in the AFL through which the CIO was created. In 1935, the CIO started out as a group of industrial unions within the AFL, but formally broke away in 1938 due to AFL leadership's hostility towards their broad unionization. While this event was another philosophical dispute with tangible consequences, the CIO found a powerful and more sympathetic philosophical alliance with New Dealers, Roosevelt and Perkins. Even though the original wage bill exempted several industries for several different reasons, it was not explicitly discriminating according to job skill and was more expansive than the AFL's position, which was to only cover industries without collective bargaining agreements. In this way, the CIO and the wage bill were further left than the AFL. Moreover, Perkins herself was in favor of extending labor protections to groups the AFL ignored, such as the low skilled unions putting her squarely in the CIO camp. She had also found a labor partner who was much more sympathetic to her aims than the AFL had been. In essence, the CIO had traded being a maligned and junior partner of the AFL, for being a more equal partner with a

sympathetic ally by explicitly linking with The New Deal Coalition.

It is within this context of heterogeneous labor politics that the 1938 fight over the minimum wage took place. Both had prominent positions within the fight. Many Democrats remained sympathetic to the AFL due to their long history, so the CIO had to work harder to earn congressional support. However, due to the CIO's broader goals, Sidney Hillman helped author the original draft of the legislation with President Roosevelt and Secretary Perkins. Ultimately, the organized labor divide had a significant impact on the overall shape of the legislation.

### **The Southern Cage**

Southern Democratic MCs were the second important group in the fight for the federal minimum wage. As with most New Deal legislation, southerners were open to legislation that provided much needed resources so long as it did not upset the racial status quo in the South (Lieberman 1998, Farhang and Katznelson 2005, Katznelson 2005, 2013). They accepted federal money, but tried to retain state authority over that money and administrative control. However, the FLSA differed from other social welfare New Deal programs that relied on massive federal expenditures in order to relieve some sort of social ill. In this way, much of the leeway allowed by southerners vanished. The administration wanted to impose restrictions on the country (including the south), but without any spending to ease the pain. In the calculus among southern MCs, there was no benefit of supporting the law and the threat of upheaving the southern racial-economic hierarchy, if it passed.

At the core, the wage bill was a series of regulations, so it was more difficult to implement trade offs necessary to win over Southerners. It was clear that if the wages of largely black agricultural and domestic workers were raised, then the system of wage slavery that southerners maintained since the end of the Civil War would be eroded. Southern business leaders also argued that a single national wage would destroy the southern economy by raising the labor costs of the 'undeveloped' southern economy. This view was reflected very clearly among southern members

of Congress and they claimed to oppose the uniform wage on economic grounds. Nordlund (1997, pg. 56) points to an editorial piece in the St. Louis Post-Dispatch, introduced into the Congressional Record by Rep. Thomas Hennings (D-MO) describing the “Southern Case” line of reasoning:

“The proposal [the FLSA] violates the historic political philosophy of the South. It seeks to achieve a national economic parity for which the South, being a region of relatively recent industrial development, is not yet ready. A sounder policy would be to permit this parity to be approached through natural development. It does not take into account the fact that there are climatic and other differences within the nation that are reflected in living and construction costs and the relative efficiency of labor. It does not make due allowance for the freight-rate differential, which puts the South at a disadvantage when it comes with the products into the populous market of the official freight territory. Instead of raising the purchasing power of the South, it would increase unemployment through the closing of industries that would not be able to pay their employees the minimum wage” (U.S. Congressional Record, Vol 83, 75th Congress, 1st Session, pg 2133).

The general idea that the southern economy was underdeveloped compared to the northern economy and could not handle a uniform national wage had some credence, but their argument was also intertwined with maintaining a racial status quo in terms of forcing largely black agricultural and domestic workers into de facto wage slavery situations (Linder 1986, Lieberman 1998). Moreover, there is evidence to suggest that the southern elements of the New Deal coalition had become increasingly hostile towards Administration domestic policy, feeling as though they were losing the long term battle for control over southern political economy (Farhang and Katznelson 2005, Fleck 2002). These positions resulted in a generally more hostile environment for President Roosevelt’s agenda among southerners than previously experienced. For instance, southerner MCs had been

hostile towards the wage floor components of the NIRA conflict as well. Agricultural and domestic workers were largely excluded at the behest of southerners.<sup>5</sup>, but the NIRA also allowed certain industries to adjust wages regionally, with southern versions of those industries with higher black workers often getting lower wages. Additionally, in some border states, industries received northern classifications if they had a largely white work force, but received a southern classification if they had a largely black work force (Wolters 1970, pg. 128). As such, the increasing focus on a wage floor as a primary domestic goal by the administration resulted in an increasingly hostile south towards the administration agenda.

Additionally, the southern interests had significant amounts of institutional power. The 75th Congress was the start of the ‘committee government’ period of Congressional history, where committees and their actors were beginning to assert themselves against the executive branch and other aspects of Congress (Schickler 2001, Ch. 4) in addition to being a period where the most senior members controlled those committees. Moreover, while the 75th Congress had Democratic super-majorities in both Congressional chambers, the party was deeply ambivalent due to the inclusion of senior conservative southern MCs. The former Confederate states acted as a one party region and many of the MCs they sent to Congress were much more conservative than the average Democrat. This, in turn, created a situation where conservative Southern Democrats gained committee Chairs and/or critical masses on several committees. Most importantly in the House, they controlled the Rules Committee which governed the ability for a bill to be heard on the House Floor. The southern control of committees in a system where committees were empowered gave them strong negative agenda control (Rohde 1991). The southern control of the committee system and especially the Rules Committee in the House, created a situation where legislation that most Democrats supported would not necessarily gain floor consideration.

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<sup>5</sup>The argument goes that agricultural and domestic workers were not ‘industrial: “Congress did not intend that codes of fair competition under the NIRA be set up for farmers or persons engaged in agricultural production,” and thus would be covered by other New Deal programs such as the Agricultural Adjustment Administration. They were not (Linder 1986).

Ultimately, the south would lose the battle for a regional differential, but they won the larger coverage battle with the legislation containing exemptions for domestic and agricultural workers and many more groups. They were able to dramatically shift the content of the legislation more towards their position in the agenda setting, committee, and chamber floor stages all while never supporting the legislation.

## **2.3 Congressional Action**

### **2.3.1 First Session**

On May 24th, 1937, President Roosevelt asked Congress to enact legislation which established certain worker protections and outlawed child labor. That same day, Sen. Hugo Black (D-AL) and Rep. William Connery (D-MA) introduced the President's plan in their respective Congressional chambers. While this was part of the broader Fair Labor Standards Act, the wage aspects of the legislation contained a 40 cent minimum wage and established a Labor Standards Board which had the ability to set wages above the \$.40 level, but no higher than \$.80 in different industries if the board felt the industry could withstand a labor cost increase. In this first session, the legislative process proved to be messy with a lot of initial maneuvering by relevant actors. While the concessions made by the President in the original bill were important, the real key moment in this first session of Congress came when the House Rules Committee refused to grant the bill a special rule to be considered on the Floor.

Despite the House Rules Committee having the final say, much of the early work on the legislation reflects strong disagreements among labor federations and thus reflects the divided labor constituency. The AFL's opposition was multi-faceted and deep. They were skeptical of a wage setting board because they thought it would result in a geographical differential (which they also opposed), and they did not trust the Perkins run Labor department. On a broader level,

they opposed the main thrust of the legislation - providing protections to all workers. Instead, the AFL felt that the protections in the legislation should only apply to non-unionized firms with the idea being that federal protections instead of union won protections, would encourage workers to put their trust in the government rather than unionization. To do otherwise was an encroachment in private enterprise. AFL President William Green, in his testimony to a joint hearing of the House Labor and Senate Education Committee summarized his opposition to the legislation, as written, as such “Any such proposal to deal with the fixing of general minimum wage standards by a government fiat for men in private industry would be strenuously opposed by the American Federation of Labor as contrary to our conceptions of democracy, and as violating the cardinal principles of self-government in private industry prevailing in this country” (Joint Labor Committee Hearings, pg 219). In other words, there was no room in the relationship between union and business for the federal government.

The CIO President, John Lewis, strongly disagreed with Green and introduced his concept of ‘Industrial Citizenship’ at the same hearing. To Lewis, the purpose of federal labor regulation was to empower labor as a constituency, making the argument that there is a positive link between federal labor protection and union power. Lewis argued that union influence of federal policy is the natural extension of Union power:

“American labor has always believed that political democracy is a splendid thing. It now knows, therefore, from bitter experience and education that unless it is intelligently united with industrial democracy it will turn to ashes in its hand. Labor has, therefore, decided that our political institutions must be supplemented by sound measures of industrial democracy. To do this, American workmen are convinced that they must have political and economic organization and power ... The workers are also convinced that political strength is necessary so that industrial planning under Federal auspices may be made possible. It is for this reason that we feel that the minimum-wage and maximum



hour provisions of this bill are a modest beginning of genuine planning toward a better economic order” (Joint Labor Committee Hearings, 277).

To Lewis, it was not about protecting the status quo, it was about using federal power to increase unionization rates which would better attune American economic policy to the position of the American worker. The federal establishment of a minimum wage would increase the protections afforded to all workers, who would turn around and encourage the federal government to better those standards.

The AFL achieved success in getting their preferences incorporated. Among other things, the Senate Labor Committee stipulated that all the Wage Standards Board members must be civil servants and also allowed for special wage standards for certain workers who might be unemployable at a minimum wage (apprentices, students, the retired, and the disabled). These changes were made explicitly to appease those who were skeptical of the need for any federal labor protections and the administrative changes were to insulate the wage setting board from Labor Secretary Perkins. The committee also changed the 80 cent maximum wage cap to 40 cents.

This bill ultimately passed out of the Senate committee unanimously and was managed by Sen. Black on the floor. Even though the Senate did not make any floor changes to the bill, Black encouraged coverage amendments to reduce opposition to the legislation. The general calculus among many bill advocates in Congress was that whatever amendments were required for the bill to gain passage should be encouraged. For instance, Labor Secretary Perkins hired a staffer that would explicitly try to change the bill to “seek out precise objections from objectors” so as to determine if they could incorporate relevant changes into the legislation in order to secure passage (Perkins 1948, pg. 250). One telling example came from enthusiastic supporter, Senator Hugo Black. Senator Black, who was managing the bill on the floor was told that smaller logging companies had more expensive logging costs than larger firms, and he encouraged

the legislator who raised that point to offer exemptions:

Then I suggest to the Senator that an easy way to obviate that difficulty, if the Senator will fight for it, is to offer an amendment which will exempt such industries and manufacturing enterprises as employ only a small number of persons. I may state that personally I shall not be altogether unfavorable to such an amendment. The large lumber people have strenuously objected to such a provision and the bill at present does not exempt them; but if the Senator will offer an amendment which will exempt the small lumbermen, I believe he will get a great deal of support in this body, although the committee has taken the other course.” (U.S. Congressional Record, Vol 81, 75th Congress, 1st Session, pg 7661)<sup>6</sup>

The Senate passed the committee bill via voice vote without any floor amendments. Even though the bill had been changed substantially in committee, William Green wrote that the bill “[did] not meet the expectations of labor” ([William Green 1937](#)). At this point, the AFL was still pushing for minimum wage protections only for workers who did not have union negotiated collective bargaining agreements. In other words, it was still an issue of power and philosophy for the AFL and since the program was a wage floor for everyone, the AFL stood in opposition.

As the bill moved to the House, the AFL found even more sympathy in the House Labor Committee than they had in the Senate. The House Labor Committee adopted many of the AFL priorities – especially in the administrative area. Most importantly, they adopted the keystone of AFL’s demands restricting the

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<sup>6</sup>Despite being in favor of that singular amendment, Black was a moderate on issues of coverage. Later in the debate he strongly opposed exempting Canneries from minimum wage protections (U.S. Congressional Record, Vol 81, 75th Congress, 1st Session, pg 7672). So, while it seemed that Black used a soft hand in the Senate, that only applied in a procedural fairness sense and to make sure the bill reflected the actual will of Senators. He also felt that the coverage exemption for seasonal workers was an adequate way to deal with those who worked intense short term schedules the stated cause for most legislators pushing extended agricultural exemptions and that specific ad hoc industrial based exemptions was poor legislating (U.S. Congressional Record, Vol 81, 75th Congress, 1st Session, pg 7880).

wage setting board's jurisdiction to firms without a serious collective bargaining agreement. With that amendment, the legislation gained the support of William Green and the AFL.

Despite the changes to the bill which produced a high level of support in the House and having passed the Senate via voice vote, the House Rules Committee did not adopt a special rule allowing for floor consideration. During the New Deal period and through the 1970s, the House Rules Committee was one of the most consequential points in the legislative process. In general, the House Rules Committee would take a piece of legislation that is ready for floor consideration and design a special rule that the House floor must pass which governs the consideration of the bill. A special rule often times includes how many amendments are in order, who controls floor time, and other logistical concerns about the bill.<sup>7</sup> In the modern era, the committee is filled with party loyalists who would not block priority bills, but in 1937, it was chaired by John O'Connor (D-NY) who was sufficiently hostile to administrative priorities that President Roosevelt targeted him for defeat in the 1938 election (Patterson 1967, pgs. 278-290). In this case, the Rules Committee failed to adopt a special rule for the minimum wage bill, killing it for that session.

The Rules Committee refusing to grant a special rule showed the height of power for Southern Democrats (Schickler and Pearson 2009) during the fight for a wage floor and was the key moment of the first session. While their number was not a majority of the Democratic Caucus in the House, they did make up a critical mass on the Rules Committee. As you can see in Table 2.1, nine out of the 14 members of the committee were southern or Republicans, which would be enough to block a rule. In subsequent sessions, the institutional power afforded to Conservatives was diminished as bill advocates were able to eject the legislation from the committee's grasp. For the first session, the politics were such that strong committees run by bill opponents prevailed.

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<sup>7</sup>There is a significant literature concerning the usage of special rules, the types of rules and how they are used for partisan/informational motivations. See Bach and Smith (1989) for a good overview.

Table 2.1: House Rules Committee Membership, 75th Congress

Legislator Name, Party, and State	
John O'Connor (D-NY)	Martin Dies (D-TX)
Adolph Sabath (D-IL)	Bryon Harlan (D-OH)
Arthur Greenwood (D-IN)	Lawrence Lewis (D-CO)
E.E. Cox (D-GA)	Joseph Martin (R-MA)
William Driver (D-AR)	Carl Mapes (R-MI)
Howard Smith (D-VA)	Will Taylor (R-TN)
J. Baynard Clark (D-N.C.)	Donald McClean (R-N.J.)

Leaders of both the AFL and CIO were livid about the denial of floor consideration. John Lewis wrote “To the leaders of the Democratic Party it presents the challenge either to restore sufficient party discipline to permit government to function under their guidance or to confess that their party is not the vehicle by which the people of this country may progress to a solution of their pressing social problems.” Green more specifically condemned the Rules Committee itself, “Here is a measure which passed the Senate by an overwhelming vote and which was practically unanimously reported by the House Labor Committee. Notwithstanding this fact, the Rules Committee arbitrarily says Congressmen shall not be permitted to vote for or against the measure. What right has the Rules Committee to defeat the will of Congress?” ([Special to the New York Times 1937](#)). Both of them clearly felt that there was no point in Democrats holding a majority if they could not pass Democratic priorities (though Lewis’ criticism of the process is perhaps a little ironic).

With the wage bill blocked by the Rules Committee in mid August and the session scheduled for adjournment on August 27th, the bill was stopped. As it stood, the bill had an administrative apparatus that only applied to non-unionized industries, a lower wage floor, and a lot of exemptions, but one that still guaranteed a certain wage and one that did not have explicit regional differentials. It was acceptable to the AFL and the CIO, but it would take two more sessions of Congress (including a special session) to enact the minimum wage on a national

level.

While it is evident that the House Rules Committee was the major barrier to legislative advancement, the labor divide should not be ignored either. Even though it appeared that the AFL had changed their position to attack Rules Committee Democrats, Frances Perkins argued that this might be a partially hollow message. First, in her memoir of working for Roosevelt, [Perkins \(1948, pg. 144-155\)](#) argues that the AFL's hostility towards the legislation on deeply conservative grounds—namely that a wage violated the relationship between labor and business—gave cover to southern critics as well as fence-sitting New Dealers. Second, the AFL had tremendous success during this session at getting changes made to the legislation at the expense of labor liberals such as Perkins and the CIO (which was the main impact of the divide this session), so it is possible AFL anger at the Rules Committee was driven by their ability to stop the AFL from creating federal labor policy according to AFL philosophical values.

### **2.3.2 Second Session (Special Session)**

After the tantalizingly close defeat of a general labor regulation bill through the House, President Roosevelt called for a special session to take up the legislation on October 12, 1937. In a statement to Congress, President Roosevelt reiterated his support for federal wage, hour, and working condition regulations. Contextually, it is worth noting that President Roosevelt had announced his Court Packing plan (The Judicial Procedures Reform Bill of 1937) earlier that year, which had badly damaged relations with Congress ([Perkins 1948, pg. 261](#)). As we will see, for the first time during the New Deal period, an administration bill was outright defeated on the House floor. In this case, it is not the southern contingent who kills the bill, but AFL allies who would pull their support for the legislation—primarily due to their inability to extract even more extensive changes on the House floor.<sup>8</sup>

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<sup>8</sup>While it is the case that committees were strong and floor amendments were more difficult, trying to extract deeper concessions on the floor was not necessarily an outlandish plan if the AFL felt they had the clout.

Once the special session started, the main conflict occurred in the House Rules Committee. As in the previous session of Congress, the Committee refused to adopt a rule allowing for consideration. The general calculus remained the same and southerners plus some Republicans on the Rules Committee were more than happy to delay wage regulation which would upend the status quo in the south.<sup>9</sup> However, House Labor Committee Chairwoman Mary Norton (D-NJ) started gathering signatures for a discharge petition to pull the bill onto the House Floor.

A discharge petition is a way to circumvent the regular legislative process and bring a bill to the floor for immediate consideration. Once the petition gets 218 signatures, it forces floor debate for the legislation bypassing whatever roadblock is preventing such consideration. Discharge petitions were a rare occurrence up until this point, so wage supporters attempting to use a majoritarian tactic to bypass the powerful Rules Committee was a significant attempt at upsetting the status quo, especially by those who were not empowered by the current legislative system (Pearson and Schickler 2009). It is worth noting, that eight members of the Rules Committee voted against discharging the legislation (Clark (D-NC), Cox (D-GA), Dies (D-TX), Driver (D-AR), Mapes (R-MI), McClellan (R-NJ), Smith (D-VA), and Taylor (D-TN)) so we can estimate what the oppositional coalition looked like in the Rules Committee even if we cannot know it for certain.<sup>10</sup>

The discharge petition took several weeks to get 218 votes, but in early December it reached that threshold. During debate over the petition, Labor Chairwoman Norton expressed her exasperation with the Rules Committee, arguing that there

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<sup>9</sup>Southern opposition to the wage occasionally drew on outlandish comparisons. Rep. Sam Hobbs (D-AL) compared the federal wage to the civil war. “Today, as representatives of the sons of the sixties, we meet again on a great battlefield of another war between the States. We are not in uniform. This ‘Big Bertha’ – the wage and hour bill – aims to destroy the foundations of our Government and of our economic structure, rather than quickly kill those on the other side” (U.S. Congressional Record, Vol 82, 75th Congress, 2nd Session, pg 1494).

<sup>10</sup>The data used for all three sessions is collected from the Poole and Rosenthal roll call data universe.

was no real reason why they had blocked the legislation, “The Rules Committee having refused to report the bill for reasons very difficult to understand, the House was denied the right to debate the bill” (U.S. Congressional Record, Vol 82, 75th Congress, 2nd Session, pg 1386). Additionally, Rules Committee Chairman O’Connor himself claimed he was in favor of the bill and of the discharge petition (U.S. Congressional Record, Vol 82, 75th Congress, 2nd Session, pg. 1385-1386), but that it was the will of the committee to not grant the legislation a rule.

The vote on the discharge petition shows a diverse coalition in favor of discharging the bill. While looking at figure 2.4, the cell on the left plots each House Member according to their DW-NOMINATE score and party.<sup>11</sup> In thinking of party politics generally, the Democrats are extremely diverse during the 75th Congress. The upper most tidbit are generally the Southern Democrats who would go on to oppose this legislation every step of the way, while the Democrats at the southern end of the tail were generally extremely supportive of the legislation. Turning to the second frame of the graph, a slew of moderate Democrats were joined by moderate Republicans and liberal Democrats who voted to advance the legislation.

In thinking about the ideology of the discharge petition vote, and further extrapolating from the graphical evidence, there are some startling points to make. Contextually, President Roosevelt’s first and second dimension DW-NOMINATE dimension were  $-.247$ ,  $.175$  while the Democratic median was  $-.139$  and  $.172$ . Put differently, relatively liberal in terms of traditional left-right thinking and moderately conservative on questions of race. The coalition to oppose discharging the bill had median scores of  $.0490$  and  $.502$  – Decidedly to the right of the average Democrat. Even exempting southern members of Congress from the voting coalition shows that this coalition is more moderate than the typical Democrat with a first and second dimension median of  $.283$  and  $-.050$  respectively. This shows us

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<sup>11</sup>In interpreting the two ideological axis, the first axis is generally thought of as the liberal-conservative spectrum where a  $+1$  is the most conservative and a  $-1$  is the most liberal. The second axis during this period is generally viewed as racial liberalism with  $+1$  being racially conservative and  $-1$  being the most liberal.

that the two main constituent parts of those who voted no are racially conservative southerners and ideologically conservative (but racially moderate) members from the rest of the country. In this way, the vote on discharging the bill from the Rules Committee reflected several different desires. The liberal wing of the party wanted to pass the most liberal wage law possible, while the more moderate elements of the Aye coalition wanted to be able to change the bill in the more moderate direction that the AFL preferred. Lastly and most obviously, conservative Democrats and the majority of the Republicans did not want to advance the legislation at all.

Despite O'Connor's lack of willingness to take responsibility to explain his committee's motivations, once the discharge petition succeeded, the House floor conflict was focused largely on program administration and the nature of unionization itself. It had always been the plan of the AFL to offer 'perfecting' amendments on the House floor in order to better reflect the AFL's position. The CIO did not favor any of the changes the AFL preferred, which included completely removing any administrative power from the wage setting board. The split between allies of the CIO and the AFL during the second session was at least as important as the split between Southern and Northern Democrats in determining federal wage policy. The floor fight in the House became a full blown labor conflict, with the AFL accusing the administration and legislative advocates of favoring industrial workers (the CIOs base) over craft workers (AFLs base) (Grossman 1978). As a result, the AFL spun back towards opposing the legislation. Some of this change in the AFL's position is influenced by internal AFL politics. Douglas and Hackman (1937) write that William Green was chastised by other AFL unions for acting too unilaterally. Additionally, they point out that non-Green AFL officials were concerned that the legislation as under debate in the House would weaken existing collective bargaining agreements for craft unions. So, while the AFL had wanted to further amend the bill anyway, internal concerns for Green forced his hand. In a more general sense, several commentators have noted that the AFLs position on the federal minimum wage is incoherent and constantly changing, which makes it



extremely difficult to pin down at any given point (Douglas and Hackman 1939).

In effect, the AFL kept pushing and the more liberal wage advocates kept retreating, at least in terms of provisions, in order to get a wage bill passed. This newly resurgent labor split further weakened the Democratic Party's ability to control the floor in the House, which became the key factor of the special session and eventually resulted in the death of the legislation for the second time. Several administrative allies lamented the fact that the labor divide allowed for conservative elements to peel away votes. Rep. Emmanuel Sellar (D-NY) said during floor debate that "It is indeed regrettable that labor cannot and does not present a united front on this bill. We members are every moment importuned by this faction and that faction of labor. Their demands are irreconcilable. ...How glorious it would be if labor were not divided." (pg 1663). Additionally, several MCs on both sides either used a labor excuse to oppose the legislation or noted that MCs were doing that. Rep. Mapes (R-MI and a member of the Rules Committee who voted against discharge) claimed to oppose the legislation because the AFL did, arguing that "[t]he American Federation of Labor, in a statement released by it a few days ago [calling for tremendous changes or recommit the legislation], voiced the sentiment of the country..." while Rep. Griswold (D-IN) made an impassioned case that opposition wage-hour bill reflected a fake labor position:

"I am coming before my colleagues as a friend of wage and hour legislation, as one who was friendly to and fighting for wage an hour legislation in committees and on the floor of this House when some of those who now constitute themselves as the self appointed friends and spokesmen of labor were unheard of and unthought of as such." (U.S. Congressional Record, Vol 82, 75th Congress, 2nd Session, pg 1398).

In this way, the labor divide's impact on legislation was predicated on the southern cage and, in turn, the southern cage was able to leverage the labor divide as well. Put differently, the divided party allowed seemingly pro-AFL advocates to easily coalition with conservative Democrats and Republicans to construct a coalition large enough to enact damaging or conservative changes. As we saw in the

discharge vote, it was made up of three distinct parts – conservative Republicans, racially conservative Democrats, and ideologically moderate Democrats.

Within the context of the larger labor fight, representatives offered an AFL substitute bill which further restricted the impulses of the administration bill. It provided for a flat 40 cent statutory wage for non-unionized workers with no flexibility and moved the oversight of the program to the Justice Department. This substitute was voted down, 131-162, with administration allies voting alongside CIO allies against AFL allies. This vote was done via teller vote, so it makes it impossible to examine a vote break down, but it was clear to all members of the House that this was an up or down vote on AFL priorities. In fact, the William Green sent a letter to Congressional for the bill to be recommitted if the substitute was not adopted, “Because the pending wage and hour bill is highly objectionable to membership of American Federation of Labor, I respectfully request you vote to recommit to the appropriate committee for revision, study, and necessary changes in order to make it a practical and constructive measure” (U.S. Congressional Record, Vol 82, 75th Congress, 2nd Session, pg 1677). As such, the bill was recommitted to the House Labor Committee and the vote was 216-198.

The vote to recommit the FLSA shows two major splits in the Democratic Party.<sup>12</sup> The Southern Democrats voted for the recommit motion 91-21, which is not surprising given their general hostility towards the legislation. However, a significant contingent of moderate Democrats voted for recommitting the legislation as well. As you can see in figure 2.4, large chunks of moderates who voted to discharge the legislation voted to recommit as well. In sum, 88 MCs who voted to discharge the bill, then voted to recommit it as well. One interpretation of the change in the vote from discharging to recommitting is that we have inductively found those sympathetic to the AFL’s position. Namely, a group of ideologically and racially moderate to conservative Democrats and a handful of Republicans.

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<sup>12</sup>The Poole and Rosenthal data shows a 220-202 split instead of a 216-198 split, but that is because they count announced votes, while a normal roll call vote does not. Regardless, it is the most convenient source for the data and the general pattern stands even with the subtle differences and I follow the Poole and Rosenthal pattern.

Their numbers are not large with only 88 switchers, but combined with dedicated no votes in the Republican Party and the Southern Democrats, the group is small, but pivotal. These switchers, who perhaps make up the backbone of support for the AFL in Congress, is less than half of the 199 members who voted to discharge and against recommitting.

The act of sending a bill back to committee, which is usually used by opponents to kill a bill, was viewed as a massive blow to the President. Secretary Perkins (1948, pg. 261) later wrote that “This was the first time that a major administration bill had been defeated on the floor of the House. The press took the view that this was the death knell of wage-hour legislation as well as a decisive blow to the President’s prestige.” In this case, it also represented the failure of President Roosevelt to get a wage bill through the special session that he had called.

### **2.3.3 Third Session**

After the special session failed to pass legislation, President Roosevelt tried once again to push the bill in the second regular session of Congress. While the outright rejection of the bill on the floor was a major symbolic setback for the administration, the prospects for passage had seemed better than they had in the special session for two main reasons. First, even though the Court packing plan had tarnished the Administration’s luster, Justice Owen Roberts switched his previously consistent *Lochner* Era philosophy vote to that of upholding New Deal legislation. The so called “Switch in Time that Saved Nine” represented the end of the Supreme Court as an active veto point on New Deal legislation specifically, but also labor regulation generally. In this way, wage advocates possibly felt they had more room to negotiate without the threat of the Court striking down the law. Second, an ardent New Dealer won a special House election in Alabama by campaigning on being a pro-Roosevelt vote, which suggested that southern voters were not as hostile to these later New Deal bills as some of their representatives

in Congress may have thought. Related, during the middle of the session Claude Pepper won a special Senate election from Florida campaigning almost exclusively on supporting a minimum wage.

Within this context, the House of Representatives began working on the legislation again. A bill that had been reworked by the administration and wage allies to placate the AFL made its way through the committee process again. In fact, House Committee Chair Norton, feeling pressure from Roosevelt to get a bill to the floor, explicitly wrote a bill that was very close to the AFL substitute bill from the earlier session (Perkins 1948, pg 251). The new House committee bill contained a 40 cent wage and replaced the labor standards board with a single administrator. The legislation also removed all flexibility, allowing for a flat 40 cent wage. The new bill also did not contain the provision that had garnered AFL support in the second session by only applying wage protections to unorganized workers. The combination of extensive industrial exclusions, a scaled down bureaucratic apparatus, and a lower wage floor, compensated for this and by the time the bill reached the floor, one pro New Deal member, Rep. Maury Maverick (D-TX), offered up one summary of the labor conflict and the AFL's turn around due to the new amendments, "This is the AFL bill. And the reason it was given consideration is because the American Federation of Labor is for it. So this is not a conspiracy of Moscow, or the CIO or of that alleged bad man John Lewis. This is a bill of that nice gentleman, Bill Green who is opposed to Government spending and stands well in respectable circles" (U.S. Congressional Record, Vol 83, 75th Congress, Pg. 7291).

Even with the AFLs support, the Rules Committee blocked the bill again. The resulting discharge petition had enough signatures to bring the legislation to the floor in just less than two hours (Record, 6395). The resulting floor debate was extremely acrimonious. Advocates honed in on the horrid nature of working conditions while southerners decried that this was the end of the southern economy. On the floor, the agricultural exemptions were extended and it is worth noting that some advocates realized the damage done to a federal minimum wage by

reducing the level of coverage. Labor Chairwoman Norton explained that, “Since the bill was sent to the House I have been asked by many Members of Congress, most of whom are friends of the bill, to accept amendments for the benefit of some particular industry in their districts. I wish I could accept such amendments, but to do so would necessarily destroy the bill” (U.S. Congressional Record, Vol 83, 75th Congress, 7281).

After two attempts, the bill passed the House 314-97. The conference committee continued the trend of exempting more industries and narrowing coverage and also reincorporated a flexibility component, which allowed the wage to be adjusted by industry until it hit the 40 cent statutory wage. The final bill, as passed by conference, passed the House 291-89 on June 13th, 1938 and it passed the Senate that same day via another voice vote.

The House conference vote, which was overwhelming, still demonstrates the intensity of certain opponents. For instance, as you see in figure 2.4, the vast majority of opposition comes from racially conservative Democrats and ideologically conservative Republicans. Additionally, in assessing the size of the AFL coalition, 68 members voted to discharge, recommit, and for the conference – the three changing positions of the AFL. It seems reasonable to conclude, at least with respect to the AFL, that the impact they had outsized their numerical size.

The final bill set a minimum wage at 25 cents for the first year, and called for a raise to 40 cents by the 7th year and allowed the (Senate confirmed) administrator to adjust wages up or down for the first seven years of the program. Additionally, it established a 40 hour work week by the third year (with 44 hours in the first and 42 in the second), banned the interstate sale of goods produced with child labor, and included exceptions for numerous industries (Forsythe 1939).

## 2.4 Discussion and Lessons from the Enactment of the Federal Minimum Wage

The enactment of the federal minimum wage was an important moment in the development of federal wage support policy. To that end, there are some lessons to draw from understanding the enactment of the minimum wage. In terms of coalition unity, the opponents were much more cohesive than wage advocates. In nearly all the relevant votes, most Republicans voted with a significant contingent of Southern Democrats to weaken the legislation. On the other side, otherwise supportive labor fought amongst themselves over the scope of the legislation based on their differing labor philosophies. In each of those votes, it is not inappropriate to think that opponents voted on whatever side they felt would limit the impact of the legislation. Even if the AFL thought they were working to strengthen the labor movement, the opposition coalition was able to use those votes as opportunities to pull the bill closer to their position – which was that any wage bill enacted should affect the fewest number of people. There is a specific component of the divide which is especially relevant for future studies concerning New Deal politics, which is that divides among organized labor seem to be largely overlooked in thinking about legislative outcomes during the period.

In thinking of the relevant votes more broadly, once we take them together, we can sketch a picture of the size and composition of consistently supportive, opponents, and wavering members.<sup>13</sup> If we examine table 2.2, we can see that the consistently pro-bill coalition is much larger than we might expect given their influence. If we look at the mixed voting category, it is important to note that those I called the AFL base are the 88 members who voted to discharge and recommit or the 68 who voted lockstep with the AFL. It should be stressed again

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<sup>13</sup>In constructing these categories, I coded the consistently supportive if they voted for the discharge petition, against recommitting the bill, and for the conference legislation. I coded a legislator consistently opposed if they voted against discharging the bill, for recommitting the bill, and against the conference committee. Mixed support is everyone else – which would include AFL loyalists.

that if we estimate the backbone of the AFL to be between 68 and 88, then they are not a big group compared to the supporters and are only on par with the consistently opposed legislators. This group of legislators made up between 47 and 53 percent of the mixed voters. The size of this group goes a long way to making up the rest of the coalition necessary for passage in either the liberal or conservative side.

If we think of the advocates for the AFL’s position as sincere – that is, they felt that union-business collectively bargained agreements were the best way to increase or maintain union power – it is now evident that they were wrong. Union density in the United States is among the lowest in the western world. This is not to say that the CIO position was ‘right’, but considering that the AFL got most of what they wanted and ended up supporting the final bill, the wage floor and associated provisions in the Fair Labor Standards Act did little to protect union power.

Table 2.2: Descriptive Statistics for Consistent Voters

Coalition Position	Size	Partisan Composition	First Dimension DW-NOMINATE Median (SD)	Second Dimension DW-NOMINATE Median (SD)
Consistently Support	190	184 Democrats 6 Republicans	-.220 (.13)	-.210 (.41)
Consistently Oppose	86	37 Democrats 49 Republicans	.240 (.19)	.21 (.41)
Mixed Voting)	163	127 Democrats 36 Republicans	-.07 (.16)	.26 (.52)

In thinking about the coalition dynamics described, there are three interesting comparisons to make with the enactment of the EITC. The first is that the EITC conflict was much more contained than the wage conflict, the second is the lack of a stable coalition compared to the EITC, and the third is the contentiousness

of the wage floor mechanism relative to the wage subsidy. In terms of conflict containment, we can see that the minimum wage conflict spread across different committees, utilized rare and unique procedural mechanisms, and engaged significant outside pressure. The EITC did not have any of that. In terms of a stable coalition, there were significant swing groups in the minimum wage enactment that switched rapidly. This is part of the reason why the bill failed or was delayed so often. The EITC, alternatively, had a stable advocacy coalition for several years. Lastly, the usage of the wage floor probably limited the effectiveness of the program in terms of coverage and wage. Unlike other New Deal programs, there was limited vote trading that legislators could do to win over southerners who did not want to upset the racial status quo and it was increasingly difficult to persuade AFL loyalists that the federal government should guarantee wages. As such, the program developed a set of provisions which excluded many groups of people and did not have generous wages – the only possible way to achieve any policy at all.

Beyond that, it is also worth noting that the institutional strength which each of these interests brought to the conflict was not equal and not equally applicable at every stage of the process. Most directly, when the bill was in the earlier stages of the House, a small and unrepresentative percentage of the House was able to prevent floor consideration. This was a powerful move by those actors, but once the discharge petition was passed their relative power was reduced to raw coalition politics. Put differently, once the southerners and Republicans lost their Rules Committee power, they needed to latch on to other coalitions to work towards their goals. Additionally, the AFL's power came in the form of being a small, but extremely influential and pivotal group in the Democratic Party. It is unclear if the AFL realized that the size of their coalition was much smaller than bill supporters, but either way they were able to extract significant concessions.

All together, I suggest that the enactment of the minimum wage is more in line with what Hacker and Pierson call the organized combat or policy centric framework. As I mentioned above, the conflict was much more serious than in the



EITC, but more than that, coalitionally and institutionally, the process was much more dynamic than we might think a ‘Downsian’ process might be. Further, the way the process unfolded seems to suggest that the check mechanism on legislators was not the voters – especially among southern voters – but really the interest groups who were most invested in the outcome of the process such as the labor unions.

In terms of future research, it seems that the divided labor component of New Deal politics should be incorporated. Very significant work has shown the role of southerners during the prereform period, but as I have shown here, the impact of divided labor factions is what allowed oppositional interests to change the bill so completely. One specific point that might be addressed is attempting to disentangle labor politics from racial politics in voting patterns. As we have seen, even non-southern opponents to the legislation have more conservative than typical scores on the second DW-NOMINATE score, indicating hostile views towards African Americans. Many of these MCs were consistent AFL voters. Were those members voting with the AFL or were they voting against African Americans? This seems a worthwhile question to ask.

As one final thought, if we think of the advocates for the AFL’s position as sincere – that is, they felt that union-business collectively bargained agreements were the best way to increase or maintain union power – it is now evident that they were wrong. Union density in the United States is among the lowest in the western world. This is not to say that the CIO position was ‘right’, but considering that the AFL got most of what they wanted and ended up supporting the final bill, the wage floor and associated provisions in the Fair Labor Standards Act did little to protect union power.

Table 2.3: Summary of Interests' Relevant Positions

	Wage	Exemptions	Administration
AFL Interests	Generally opposed, and only wanted it to apply to non-unionized workers	If there was to be a wage no differential	Flat wage without any administrative discretion, focused on ensuring Labor department not involved.
CIO Interests	Strongly supportive	Wanted coverage for as many people as possible	Unclear, but helped design original legislation which gave some discretion to an appointed board.
Southern Interests	Generally opposed to disruptions to southern political economy	Actively sought many exemptions	Whatever the wage was, desired a lower wage for southern states
Outcome	Flat wage adopted	Numerous exemptions included, most importantly for farm and domestic workers	No regional differentiation, some discretion given to wage boards housed in Labor department

Figure 2.1: Ideological Mapping of Political Parties and the 2nd Session FLSA Discharge Petition Vote

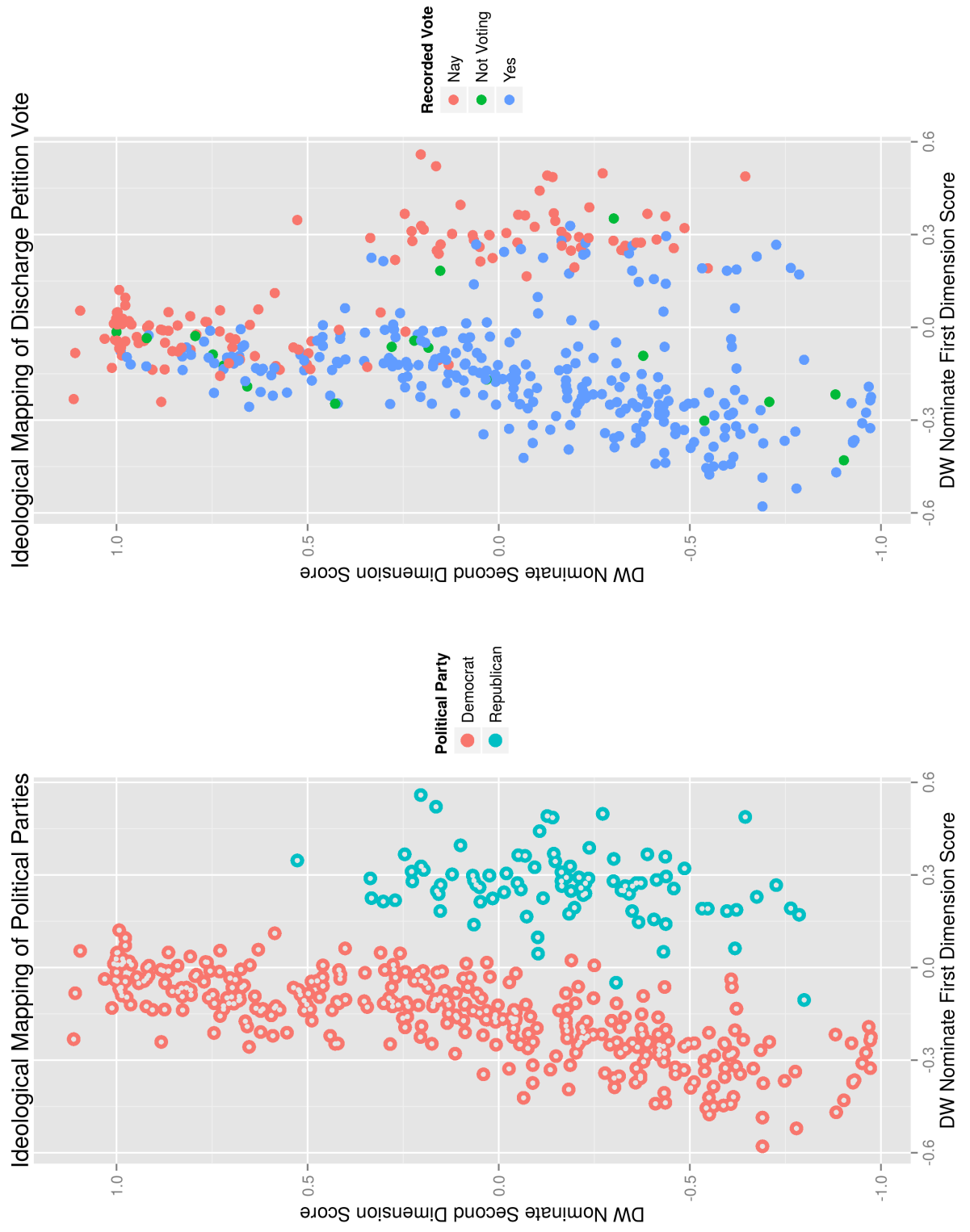


Figure 2.2: Ideological Mapping of Political Parties and the 2nd Session FLSA Vote to Recommit FLSA

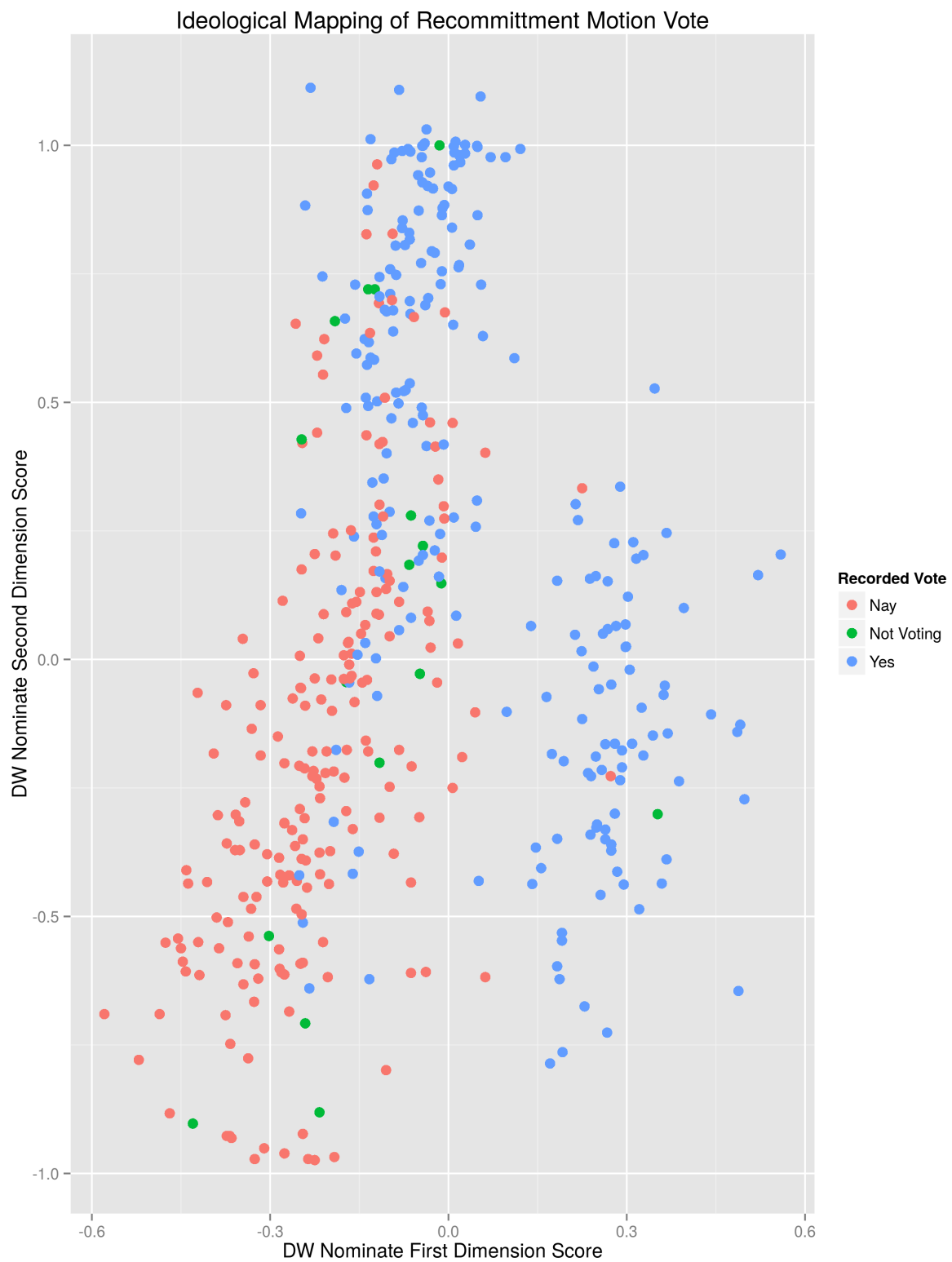
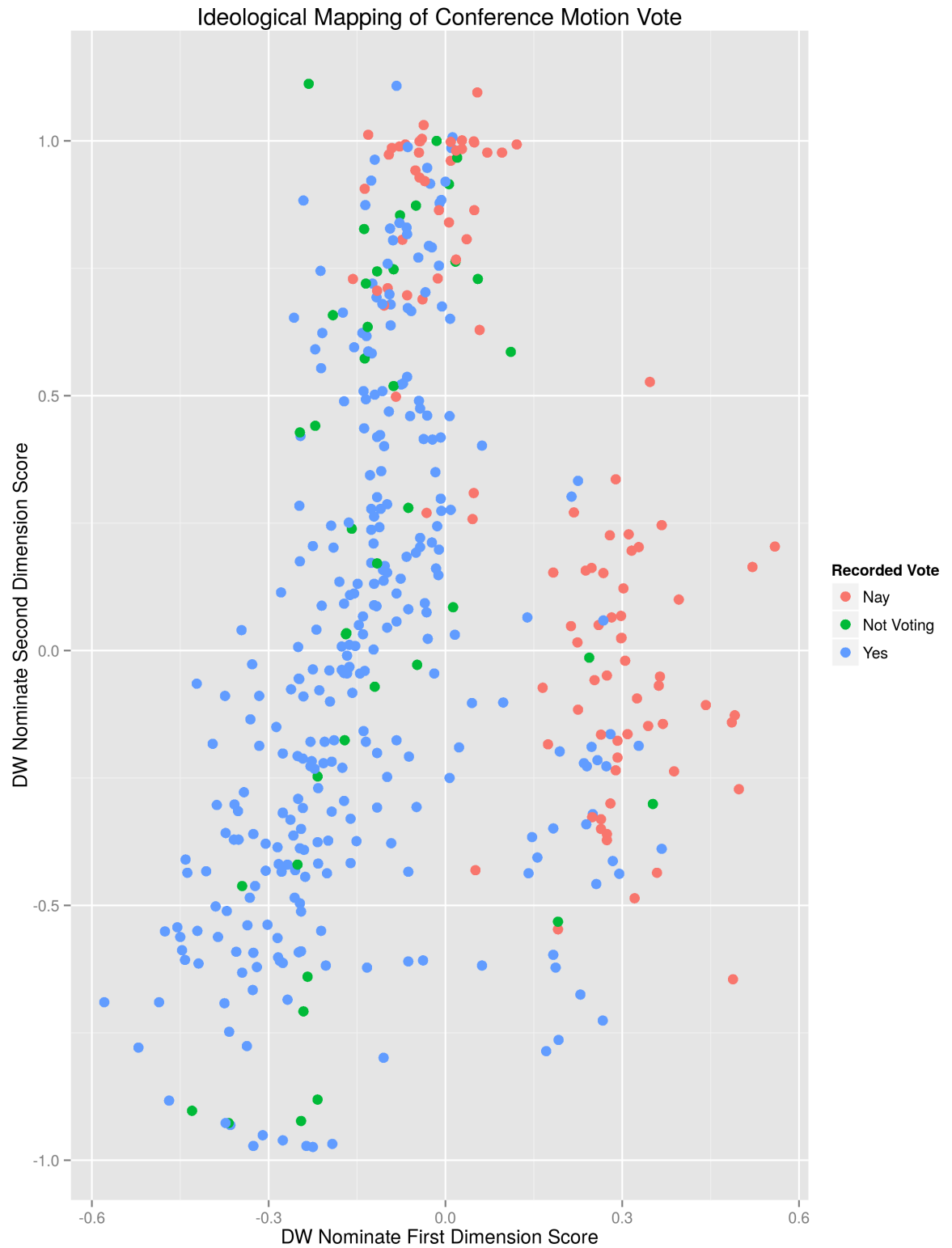


Figure 2.3: Ideological Mapping of Political Parties and the 3rd Session FLSA Vote On Conference Bill FLSA



## Chapter 3

# Congress and the Creation of the Earned Income Tax Credit

Signed by President Ford on March 29th, 1975, the Tax Reduction Act of 1975 changed how oil producing companies were taxed, increased the standard deduction, and created the Earned Income Tax Credit (EITC). At the time, the EITC was a small part of the overall bill, but today it is one of the largest and most influential cash transfer programs in the United States. The EITC has lifted nearly seven million people out of poverty and provided \$60 billion in tax benefits to 27 million American households in a single year (2012) ([Maag and Carasso 2014](#)). In this chapter I analyze the politics that led to the enactment of the EITC and discuss several lessons from the enactment in conversation with the minimum wage. Primarily, I find that the congressional context of the time, namely the ideological characteristics of the coalitions and the organizational distribution of power, are central to understanding the enactment and content of the policy. Additionally, I argue that the key provisions in the EITC reflected the strength of an ideologically moderate and bipartisan coalition that controlled one of the main committees where tax policy was formulated. To that end, I suggest this coalition constructed a program that appealed more closely to the median MC rather than the average MC for one of the parties. The vehicle the program took was

as a wage subsidy through the tax code, which attracted centrist MCs. Despite the fact that this program was originally intended to be temporary, the choice to design the program in this way had consequences for the long term development of the program. I also suggest that there are significant differences in politics that shaped the EITC's enactment, compared to the enactment of the wage.

The coalition aspect of the enactment of the EITC reflects the strength of occupying the middle ground in being able to shape legislation. The coalition in favor of the EITC was a bipartisan, ideologically moderate group of Senators. The Democrats in the coalition wanted to construct a program to aid working poor families, but were agnostic about the mechanism through which it was delivered. The Republicans in the coalition were open to the idea of such a program, but did not want it to take the form of traditional cash assistance style programs. Consequently, the provisions of the program were shaped through a center-left and center-right compromise. Compared to the core minimum wage coalition, which was essentially Presidential allies and Northern Democrats, the wage advocates were fighting from a place of coalition weakness which seems to be the opposite of EITC advocates.

The second part of the enactment highlights the power given to committees in the mid 1970s as an organization constraint on how the policy was enacted. More specifically, the Senate Finance Committee (SFC) was the most powerful institutional component in turning the EITC from legislative proposal into law. While the committees were losing their clout relative to other actors during this time, the Finance Committee still held much in the mid 1970s. As such, in 1975, the SFC attached the EITC to a large tax bill concerning mostly oil policy. The program was legislatively simple, temporary, and did not induce much conflict unlike other types of labor or social policy. Mechanically, it provided a wage subsidy to those who worked with recipients receiving a sliding benefit through their income tax return based on their yearly income. Following committee passage, the tax bill received floor consideration, passage, and was signed into law with no floor controversy over the wage subsidy parts. The powers associated with the

Finance Committees, specifically the deference afforded to them and their tight control over the framing of the program, facilitated such a legislative victory. In thinking back to the enactment of the minimum wage, the effect of organization on enactment had virtually the opposite story. Most Congressional organizations favored opponents, and eventual passage was fraught with extreme difficulty.

Summing coalitions and organization together, when combining the moderate aspects of the coalition with the power of the committee, they had significant control over federal tax policy and the policy tool they used to implement a wage subsidy reflected that. In terms of getting the EITC enacted, the power of the committee in a committee centric organizational process was crucial. They were able to attach a program to a large bill without any objections primarily because of the deference afforded to committees and the ability to label the program as one that incentivized work. Contrasted against the very public minimum wage enactment, which publicly invoked racial stereotypes, anti worker tactics, and was generally extremely ideological. Pivoting to policy content, the bipartisan moderate coalition that made up the majority of the committee settled on legislative provisions that struck a middle course ideologically. They used a policy tool that, while not overly well known, was still firmly within their jurisdiction to use in a tax credit and thus did not draw criticism on that front. Compare to the tool of the wage floor and all the coverage exemptions needed to pass it, the plurality of debate was focused on questioning the legitimacy of the tool completely – which had consequences for its development. The process through which the EITC was enacted and the moderate tone of the policy content had significant implications for the future of the program and made scaling from a small committee based coalition to the larger chamber based coalition much easier.

This chapter proceeds as follows: First I describe what the EITC entails in terms of policy. Then I examine the political context prior to the enactment of the program to highlight the lead up to the enactment of the EITC before turning to the EITC itself and discuss the legislative steps that policy advocates took to enact the program. Finally, I highlight the ways that the congressional context



facilitated the passage and content of the EITC.

## **3.1 Congressional Context, Historical Background & The Enactment of the EITC**

### **3.1.1 What is the Earned Income Tax Credit?**

Unlike programs such as the Minimum Wage or Social Security which are relatively straight forward to explain, the EITC is a bit more complex. At its core, it is a wage subsidy provided through the tax code. The payment plan is based around a phase in, plateau (though the original program did not have this), and phase out sliding scale based on the recipient's income.<sup>1</sup> In effect, a recipient's benefit will grow as their income grows based on a percentage of their income, then after an income threshold is hit, the benefit will persist as incomes continue to rise without the benefit declining. Finally, after the recipient hits a second income threshold the size of benefit will begin to phase out again. The original program provided a ten percent wage subsidy until the recipient reached \$4,000 in income then once the recipient had earned \$4,000, the benefit would decline at an additional \$400.00 minus ten percent until the recipient had reached an income of \$8,000.

Unlike traditional wage support programs, this one is administered through the tax code. Instead of having to go to a government office and interact with a social worker or someone similar, all one has to do to receive this program is fill out a single form with their typical income tax form. Additionally, a negative income tax component comes in when the recipient has received more benefit from the EITC than he paid in taxation. After the taxation component is zeroed out, the remainder of the program will be added to the recipient's tax refund. This is called a refundable tax credit. As an example, if someone received \$2,000 from the EITC and only paid in \$1,000 then they would receive the extra \$1,000 as part

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<sup>1</sup>Additionally, the original EITC only gave the program to those with a dependent.

of their refund from the federal government.<sup>2</sup>

### **3.1.2 The Roots of Creation: The Family Assistance Plan**

While the enactment of the EITC occurred in 1975, the philosophical and legislative roots lie in the societal turmoil of the 1960s. It was a decade that opened with ‘grand expectations’ and ended with those expectations dashed (Patterson 1997). Liberals spent the early and mid-parts of the decade advocating for expanded rights for the poor and people of color and argued that the federal government should do far more to assist the disadvantaged (Patterson 1997, pgs. 638-642). The mass mobilization of liberals resulted in significant programs for the poor in Medicaid, increased assistance for the low income with the Economic Opportunity Act of 1964 and increased educational opportunities for the very young and poor with Head Start. For many, the Great Society program reforms were not enough and tensions were high. Some groups continued to assert their rights, seeking access to welfare programs that had been withheld from them (Piven and Cloward 1971). Additionally, racial tension was extremely high as well with riots impacting nearly every major American city.

To President Nixon, these riots and the resulting unrest was something to be averted. In response, Nixon proposed the Family Assistance Plan (FAP) which phased out many existing cash assistance programs, most notably Aid to Families with Dependent Children (AFDC) and replaced them with a guaranteed minimum income for every low income family. The size of the benefit was inversely adjusted as a function of income, with the benefit declining as income increased. This was the main domestic initiative of his first term and was introduced by him in a prime time television address. In general, there seemed to be an appetite among both left and right public intellectuals. Conservative economist Milton Friedman advocated replacing the current welfare system with a negative income tax and a flat overall tax rate (Friedman 1962, ch 12). Additionally, on the left,

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<sup>2</sup>Several states now have their own EITC programs as well.

Piven and Cloward expressed hope the existing system would be changed to more represent a negative income tax. They argued that if advocates put enough stress on the existing welfare system, “a political crisis would result that could lead to legislation for a guaranteed annual income and thus an end to poverty” (Cloward and Piven 1966).

The program that the administration designed was specifically created to pacify urban people of color. In fact, Daniel Patrick Moynihan (1973, pg. 116), a key architect of the program and special assistant to President Nixon, attributes the entire plan to Nixon’s fear of ‘urban violence’:

“The events leading to and from the proposal of FAP have a conceptual unity that admits of separate treatment as a long range development in social policy. The proposal was made, however, as part of an overriding short term strategy to bring down the level of internal violence.”

In Congress, the House of Representatives quickly passed a relatively liberal version of Nixon’s original plan, sending it to the Senate. During this time, observers thought that liberal Senators would be a stumbling block but instead, citing a recent Milton Friedman editorial, conservatives and moderates argued that the FAP just increased welfare spending because it did not sufficiently make cuts to other existing welfare programs. In order to win back conservatives, Nixon conceded on deeper, as deep as 20% for some programs, cuts to existing welfare programs including and extending past AFDC. This turned liberals away without winning conservatives back and the program failed to pass in the Senate (Neuberg 2004).

The FAP never succeeded in Congress because of a confluence of events which are interesting to note for comparison against the successful EITC. Most directly, the fact that this was a highly salient major policy reform with limited buy in from the relevant oversight committees contributed to the general collapse of the proposal (Neuberg 2004). For instance, the Senate Finance Committee voted 14-1 against sending the original program to the Senate floor. Additionally, Moynihan

(1973) points out that several members of Congress were very turned off to the plan because they viewed it as a form of socialism. While it was clearly in a potential recipient's interest to work because the total level of income would increase, some saw that even the non-working poor would be able to get some amount of money from the government even if they may have been 'undeserving.

It is worth discussing the FAP, the context it was created within, the philosophical underpinnings, and suggesting some reasons why the program may have failed because of the similarities between the FAP income guarantee and the EITC, but it is important not to over generalize. Specifically, while there is overlap among the two legislative endeavors in terms of key actors, institutions, and program mechanisms, there are significant differences. For instance, the FAP was a presidential initiative while the EITC was not. The FAP contained several significant and controversial components in addition to the wage subsidy, including deep cuts to welfare spending and major federalism adjustments in terms of who pays benefits. The EITC was just a wage subsidy. The biggest difference is perhaps that the FAP would have allowed a benefit to those who did not work while work is central to the EITC. These differences undermine the ability to construct an analysis about why one failed but not the other, but the similarities are too many to disregard the attempt as a bump along a legislative trajectory. As such, while the FAP was the first major attempt at a wage subsidy and directly influenced the eventual enactment of the EITC, it is inappropriate to link the events too tightly in analysis and serves mostly as an introduction for Members of Congress to basic income style programs.

### **3.1.3 Legislative Success: The Enactment of the EITC**

Following the defeat of the FAP, Senate Finance Chairman Long (D-LA) started quietly advocating for a plan focused on encouraging poor people to work, a plan he called the "Work Bonus Plan." The work bonus plan was a wage subsidy designed to encourage work by creating a tax credit that paid back a worker's

social security payroll tax. A worker would be able to claim it on their income tax forms in order to reduce their income tax liability. After the credit zeroed out someone's income tax liability and if the person still had some of the benefit left, the government would pay the remainder of the benefit to the person. As mentioned above, this is what is called a refundable tax credit. The crux of the program is similar to the guaranteed minimum income proposed by Nixon in his Family Assistance Plan, but obviously not the same. Whereas the Family Assistance Plan was a guaranteed minimum income without reservation, the Work Bonus Plan required that a potential recipient of the program worked in order to receive the credit. The Senate Finance Committee attached the Work Bonus Plan to pieces of legislation for three years in row, always passing the Senate, but unable to secure passage in the House.

Floor and hearing discussion over the program is scarce and where it does exist, it makes up very small parts of larger statements by MCs. That said, there is evidence to suggest that the program was supported by liberals, who may not have been supportive of tax credits in general. Senator Walter Mondale (D-MN), a key liberal Senator on the Finance Committee, praised the early Work Bonus Plan on the Senate floor saying, "Another important feature of our tax cut amendment is Senator Russell Long's "work bonus plan" which would give low income workers . . . a refundable tax credit. The relief that this tax cut proposal would bring to low and middle income families is desperately needed after the runaway inflation" (U.S. Congressional Record, Vol 120, 93rd Congress, 2nd Session, pg 19557). There is also evidence that, at least in the pre-enactment attempts, there might have been opposition towards the program among the administration and the most conservative elements of the Senate. Senator Carl Curtis (R-NE) claimed that the Administration was opposed to the Work Bonus Plan and called it a welfare program however, that seems couched in an annoyance that Curtis did not get the chance to offer his own amendments in committee (U.S. Congressional Record, Vol 120, 93rd Congress, 2nd Session, pg. 40324). It is worth noting that President Ford did not express any evident opposition, either privately or publicly.

Following two attempts to get the ‘Work Bonus Plan’ attached to larger legislation the Earned Income Tax Credit (EITC), a slightly modified version of the work bonus plan was signed into law on March 29th, 1975. The program, which as mentioned, sought to reimburse social security payroll taxes, was part of the Tax Reduction Act of 1975. Most of the larger legislative vehicle had little to do with wage subsidies and most of the political conflict over the bill had to do with how oil companies were taxed for producing oil, and how much they could write off from their corporate taxes. Despite earlier discussion about the program on the Floor, there was never a committee hearing on this incarnation of the work bonus plan now called the Earned Income Credit and there was no mention of it in subsequent floor debate. Liberals in both the House and Senate were concerned with oil, and while this bill did prove to be a fairly important milestone in forcing legislation to reflect chamber desires as opposed to committee desires in the House, it was taxes on oil that prompted that fight. In short, the EITC was almost entirely non-controversial at its enactment.

Why had Long only now been able to get the EITC/work bonus plan signed into law, but not the previous two times? There had been significant changes to the relationships between the Senate Finance Committee and the House Ways and Means Committee and the legislative vehicle was deemed a ‘must pass’ piece of legislation. First, the historically powerful House Ways and Means Chairman Rep. Wilbur Mills (D-MO) had resigned as Chairman of the committee just four months prior and the new Chairman, Rep. Al Ullman (D-OR) had not regained the power wielded by Mills. Additionally, from a power politics stand point, Ullman did not have near the regard as Long. As such, Long dominated the Conference Committee over the legislation ([Liebman 1998](#)). Secondly, the vehicle that Long attached the bill to was a stimulus package called for by President Ford. While there was nothing about a wage subsidy in the plan Ford proposed, attaching a tax cut to a stimulus bill filled with tax cuts, supported by the President, significantly lowered the bar to enactment for the persistent coalition. Moreover, while President Ford thought the bill was too expensive and only reluctantly

signed it, he never mentioned the EITC when outlining his reservations or listed it as an example of the ‘bloated’ legislation. One reason for this may be the lack of centrality of the plan to the overall bill. A second reason may be that the EITC only made up 7% of the overall bill so it was not worth a hassle.

The legislation cut individual tax rates for Americans and by using this as a vehicle for the EITC, Long allowed the EITC to be viewed as tax policy instead of welfare. While earlier attempts at providing welfare had been very successfully racialized, this program represented a different type of assistance. An eligible family claims their EITC benefit when they file their tax returns. It is totally private in terms of there is no way for anyone to know if a family claimed their benefits. The consequence of this is that a negative, welfare-based, frame of the EITC was not present at the beginning of the program ([Halpern-MeeKin et al. 2015](#)).

The program had a one year sunset on the program, but it is clear that advocates were planning on continuing it in subsequent Congresses. After the Tax Reduction Act of 1975 was passed and the President proposed his budget for the next fiscal year, he did so without a renewal of the EITC. Then Chairman of the Council of Economic Advisers, Alan Greenspan, testified on behalf of the budget. Chairman Long asked if it was accurate that the President had intentionally left out the program. Greenspan conceded that the Administration had and the Committee moved on to the next speaker and set of questions. Senator Abraham Ribicoff (D-CT), one of Long’s closest allies in the Finance Committee, then interjected that Greenspan and the Ford administration would lose that particular battle. “I would just make one comment. You had better tell the President, if he thinks he is going to get to eliminate the Earned Income [Tax] Credit over Chairman Russell Long he has failed to learn a lot of lessons that Chairman Russell Long has taught a lot of Presidents and Secretaries of the Treasury over the years. I cannot imagine a tax bill coming out which eliminates that. I use that just as a practical problem” (The President’s Proposed Tax Cut and Budget Ceiling Hearings before the Joint Economic Committee, pg. 31).

## **3.2 Lessons from the Enactment of the EITC**

With the legislation enacted, there are certain lessons that can be drawn out to explain how the program was enacted and the content of the program, contrasted with the enactment of the wage. Specifically, the way that power was distributed to committees, the cohesion of the coalition in favor of the program, and the ability of that coalition to leverage their formal and informal powers go a long way to explaining how the EITC was shaped at enactment and go towards showing differences with the wage.

### **3.2.1 Cohesive Coalition & Disparate Opposition**

The first major lesson from the enactment of the EITC is that the underlying EITC coalition was a pro-tax expenditure coalition, bipartisan, ideologically moderate, and isolated from outside interference. The Republicans on the committee largely favored tax expenditures that encouraged businesses to do certain things, while conservatives outside the committee generally opposed tax expenditures because they thought the tax code should be simple and free of social experiment. Conversely, Democrats on the committee also largely supported incentivizing behavior, both with respect to individuals and business, which was in contrast to liberals outside the committee who felt that tax expenditures were benefiting the wealthy and business interests disproportionately. Contrast this with the minimum wage coalition, which was partisan, extremely affected by outside interests, and regionally split. Just about every move they made was highly scrutinized by interests inside and outside of Congress. What does this difference show? One key thing is that the coalition in favor of the EITC was much more unified than the coalition in favor of the wage. A second is that there was less external pressure on the EITC coalition than on the minimum wage coalition, perhaps making it easier for the EITC coalition to persevere.

The focus on tax credits as a major policy making mechanism was a shrewd and pragmatic one in terms of the EITC and coalition unity. Tax Credits were



a political tool used by the Senate Finance Committee, knowingly, to create re-distributive policy. Stanley Surrey wrote a damning report in 1973 creating the phrase “Tax Expenditure” to show that the government was spending a lot of money on creating public policy outside of the traditional policy-making venues by foregoing tax revenues (Surrey 1973). Long and the rest of the committee embraced this new tool, despite objections from people like Surrey. To Long and the Finance Committee, tax expenditures were a policy making tool just like anything else and the committee’s reliance on them was simply pragmatic, as described by Long here, “When it comes to helping homeowners, if I were on the Banking Committee, I’d favor a loan guarantee for them because that would be in my jurisdiction, but since I’m on the Finance committee I favor the use of tax credits” (Ehrenhalt 1977).

In thinking about advocacy coalition unity around policy mechanism as a difference between the enactment of the EITC and the minimum wage, it is a major one. Among the biggest differences is that even ‘natural’ allies such as Democrats in general or the biggest union did not support a wage floor. If advocates had wanted a partisan coalition (or needed one), it was a much more difficult proposition. More specifically, AFL allies in Congress were crucial to the eventual passage of the minimum wage, but were not reliable members of the coalition leading up to that point. At some points, they voted for killing any bill with a wage floor. Compared to the rock solid coalition the EITC had in favor of a tax credit as policy too, this is a major difference between the two enactments. Tax credits, as a policy tool, was also a factor in constructing the opposition, in so much as there was any on this particular policy. Opposition to tax credits, as indicated above, came from both the right and the left with the former disliking the tool because it disproportionately benefited business and the latter viewing credits as market distortions. This made it difficult for anti tax expenditure coalitions to form. Since the coalition in favor of the program occupied the ideological middle and came from both parties, they were able to push through a re-distributive policy quite easily. Additionally, the usage of the EITC as a tax credit also comes

at a time when they had the most powerful support and when opponents had not really organized yet. By 1985, this tool had come under sustained pressure and suffered, however fleeting, retrenchment (though the EITC itself was not retrenched). As such, the construction of new re-distributive tax credits would become much more difficult later on due to increased scrutiny and a decline in deference given to committees.

The premium that the Finance Committee put on using tax credits as a policy tool was so absolute that Chairman Long and other members went out of their way to limit the ability of outsiders to even understand what happened in committee. One way of doing this was through social stigmatization since Long did not like those opposed to tax expenditures, so opposing him was a good way to lose a personal friendship and be legislatively excluded. In fact, he and the committee made it so hard to get on the committee that most reformers who did get on the committee realized that it would take all of their political resources to go against the pro-tax expenditure Senators and eventually just went along with the pro-tax expenditure consensus (Reese 1980). Additionally, Chairman Long handpicked staff who were very loyal to the mission of the committee, kept closed session, rarely took recorded votes, and developed their own ‘banter that was difficult for outsiders to understand (Ehrenhalt 1977).

To that end, while DW-NOMINATE is an imperfect measurement of specific issue based views, especially in light of Lapinski (2013)’s objections that it masks significant underlying issue variance, it can nicely illustrate the differences between those on the Senate Finance Committee and the rest of the Senate. As we can see in figure one, the ideological composition of Senators on the Senate Finance Committee is much more uniform than the Senate Chamber as a whole. This underlines the idea that there was a lot of overall agreement in that committee and that forming ideologically moderate coalitions was much easier. This coalition would last for another five years before Russell Long left as Chair and the process of collective control over policy, as opposed to committee control, began to take hold in earnest.

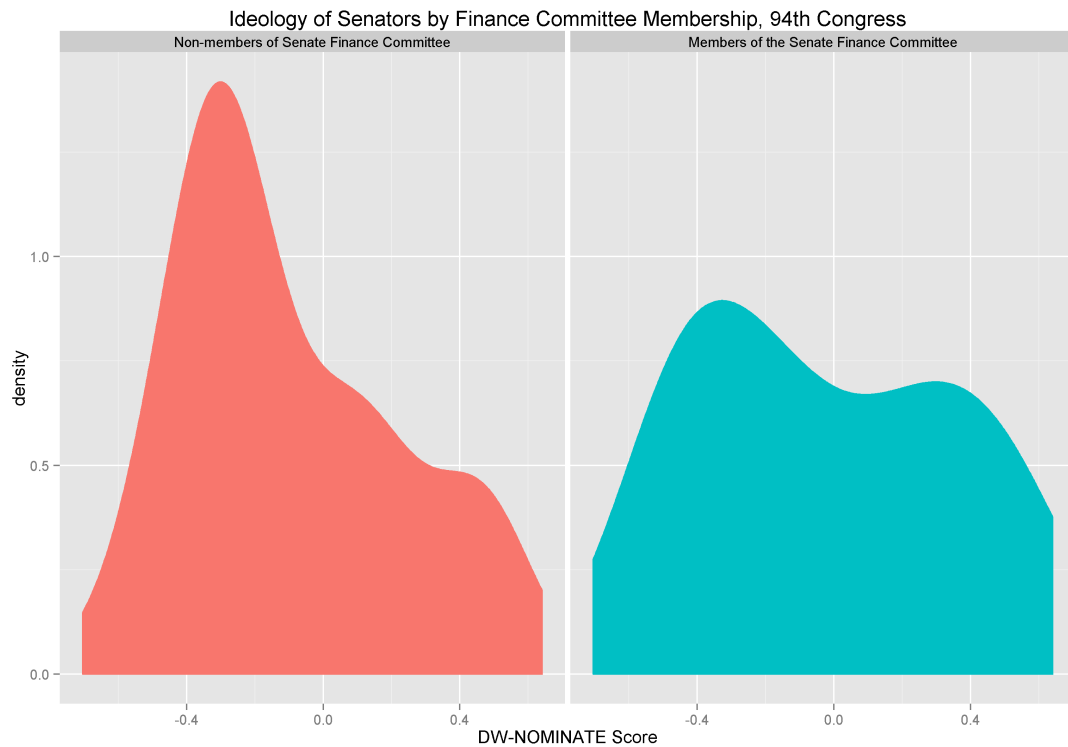


Figure 3.1: Ideological Composition of the U.S. Senate, 94th Congress

Contrast to the choice of a wage floor for the minimum wage, and we see far less room for wage advocates to maneuver in appeasing or disengaging opponents. The AFL thought that the government had no business interfering with wages and southerners wanted to protect the southern status quo. As I mentioned in the previous chapter, wage advocates had trouble bargaining with Southerners like they had done with other New Deal programs because a wage floor is a regulation. With spending programs, it is easier to trade votes for more funding. Even if southerners were able to extract coverage concessions from wage advocates – and they were – a wage floor still changed the socio-economic status of people in the south. With this in mind, the difference in policy tool had quite an effect of intensity and strength of opposition.

### 3.2.2 Importance of Committees in Decentralized Congress

The second component of legislative context focuses on how power is distributed within Congress. In 1975, committees still enjoyed significant power and deference from the broader Congressional community. More specifically, that meant that all taxation legislation moved through the U.S. Senate Committee on Finance. It was a key committee that was potentially a very important veto point. Controlling this committee meant controlling federal tax policy [Surrey \(1973\)](#), [Reese \(1980\)](#). By serving on this committee, members were able to exert an inordinate amount of control over the legislative process and for the purposes of this chapter, the Earned Income Credit. This fact about control is especially true considering the congressional reforms, which weakened standing committees, that were starting to take place in the House had not reached the Senate in a very meaningful way yet, so the power of the committee was still very high ([Rohde 1974](#)).

In addition to the formal committee powers, the Senate Finance Committee during the 1970s relied heavily on the norms of distributive politics to pass legislation and for the benefit of the legislator in his own right ([Shepsle 1978](#), [Ellwood and Patashnik 1993](#), [Evans 2004](#)). Even people who were hostile could be, and were, co-opted. During an energy bill mark up, the Finance Committee adopted a provision benefiting railroads except for railroads in Wisconsin when Sen. Gaylord Nelson (D-WI) was out of the room. Nelson, an ardent opponent of tax expenditures, asked to be included in the logroll so as to benefit Wisconsin and Long agreed, but only if Nelson would vote for the next two tax breaks for other Senators ([Ehrenhalt 1977](#)). Ultimately, The Senate Finance Committee was a bastion for Senators who very much appreciated formulating policy to better their constituents and they were able to implement those goals very fluidly in a decentralized Congress ([Fenno 1973](#); [Howard 1997](#), pg. 179).

In fact the combination of the distributive norm, tight social agreement between Senators and significant power given to the committee, resulted in a situation where the EITC coalition and the Senate Finance Committee had significant overlap. In that sense, Chairman Long was both a legislative entrepreneur and

coalition leader through which he gained support with the factors outlined above, but also with extensive logrolling.<sup>3</sup>

Additionally, the deference afforded to the Senate Finance Committee and their tight socialization process where they forced people into the fold, also allowed them tight control over the initial framing of the EITC. That is, in all of those early attempts at passing a tax expenditure designed to reimburse payroll taxes, the EITC was cast as an alternative to welfare. Long personally thought that there was too many people receiving cash assistance through AFDC, which is partially why he opposed giving a guaranteed income to everyone during the Family Assistance Plan (this is also the case for most people on the Finance Committee). With that in mind, Long felt as though by encouraging people to work, the federal government could reduce both the unemployment rate and also welfare rolls (Ehrenhalt 1977). In Senate Report 94-36, the report accompanying the Tax Reduction Act of 1975, as marked up and passed by the Senate Finance Committee, the committee wrote:

“The committee believes, . . . , that the most significant objective of the [EITC] should be to assist in encouraging people to obtain employment, reducing the unemployment rate and reducing the welfare rolls. Thus, the provision should be similar in structure and objective to the work bonus credit the committee has reported out previously” (U.S. Senate Committee on Finance 1975, pg. 36).

The construction of this re-distributive program as a tax program as opposed to welfare made different interests salient among MCs. Considering that the key decision makers were in favor of tax expenditures, but not in favor of ‘welfare spending is a key distinction which facilitated the initial passage of the EITC. In a very real way, this program was designed as anti-welfare. The logic was that it was enough money to negate social security payroll taxes which gave more take

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<sup>3</sup>There is a focus on Ways and Means Chairman Wilbur Mills during this time in the scholarly literature, but Long is a bigger contributor to the current state of the Earned Income Credit, and *probably* to means tested cash assistance style programs too (Zelizer 1998, Manley 1970).

home pay to a low income worker. While this is obviously a re-distributive transfer program, the designers viewed it as, and convinced the Senate Finance Committee, that it was an incentive to work. Shaping perceptions of a policy proposal is an important aspect of coalition building (Douglas 1990) and in addition to the transactional nature of the Senate Finance Committee and the EITC coalition, Long was able to persuade the committee that this program was not an expansion of welfare program, an association which would have hurt the early trajectory of the program. We see, in effect, very strong evidence of the messaging power afforded to a tightly cohesive and powerful coalition.

Christopher Howard (1997, 2008) has also pointed out that the lack of a link between the EITC and welfare helped considerably with the enactment and subsequent expansions. He also contends that the legislative vehicle through which the EITC was created and expanded, tax omnibus legislation, helped create a certain type of politics around the program. Ultimately though, these are reflections on the amount of power of program advocates. The Senate Finance Committee was insular and unified enough to control the framing of a program they advocated and took the long view in attempting to build the image of the EITC as not welfare. Additionally, they were also able to include the EITC enactment in larger tax legislation because they were in charge of the tax legislation in an era when extreme deference was given to tax writing committees. So while I agree that being constructed as tax policy and advanced through tax policy is important, those facts are the result of intensely strategic and powerful committee members flexing their power in an era when they had a lot of power to flex.

In contrast to the extraordinary institutional advantages held by the pro EITC coalition in 1975, the pro wage coalition in the mid 1930s did not have any of the same advantages. The committee with jurisdiction over the wage bill was generally supportive but they had almost zero deference from other members of Congress. As I discussed extensively in the preceding chapter, the House Rules Committee did all it could to prevent the wage bill from even reaching the floor. To that end, while the Finance Committee offered extensive protections and benefits to

the process of getting the EITC passed, wage advocates had none of that.

### 3.3 Conclusion

In this chapter I suggested that the way power is distributed in Congress combined with the ideological composition of policy coalitions impacts the content and politics of a policy. Congress gave a disproportionate amount of power to committees and because the Senators who controlled that committee were strongly in favor of tax expenditures, the program was designed a certain way. Specifically, I showed that a unified coalition that drew centrist Senators from both programs were able to advance legislation that attracted minimal controversy through program design. I also showed that the tools afforded to a unified coalition that occupied a strong committee could be extremely important in terms of early policy politics. Namely, that the program primed work rather than welfare and was viewed as tax policy.

One consequence of the design choices pursued by program advocates is there is significant evidence that the design choices pursued by program advocates did not produce any sort of self-reinforcing feedback mechanisms among the mass public (Mettler 2011). Along those same lines, the program did not disempower entrenched interests, instead it was the entrenched interests who created the program and as we will see, protected it in the early years. Much like with the minimum wage, this suggests that the politics of the EITC after enactment will be very Congress centric.

Despite the potentially dangerous consequence of not generating outside support mechanisms, a second consequence is that the bipartisan and centrist coalition of Senators in favor of the program would be easier to scale, as Congress began centralizing power in favor of party leadership and the parties became more perfectly sorted. As we will see in the next chapter, program support from both liberals and conservatives protected the program from retrenchment even as other programs with similar goals were getting cut. Additionally, we will see that

the coalitional arrangement also provided support for expansion of the program among Republicans even as they were becoming increasingly hostile to other social spending programs.

I also compared the institutional and coalitions differences between the enactment of the EITC and the minimum wage. I suggested that coalitionally, they were significantly different in two ways. First, the advocacy coalition in terms of the EITC can be thought of as bipartisan, while wage advocates struggled to even pull together a partisan coalition. Second, advocates for the EITC were quite unified around the tax credit mechanism, while there were significant disagreements about a wage floor among labor sympathizers during the wage enactment. Institutionally, I suggested that the EITC had significant advantages during the enactment process, while the minimum wage did not have very many advantages. This all comes together to suggest that the differences in the enactment process between the two proposals were starkly different.

Additionally, I also described the relationship between the preferences of the Senate Finance Committee and the Senate floor. I suggested that we see a classic case of floor deference towards the committee due to expertise (Krehbiel 1992), but I also outlined several ways why the Senate Finance Committee was able to get what it wanted that fit with classical traits of why committees are powerful (Shepsle and Weingast 1987). The idea that the Senate Finance Committee was in charge of tax policy, had the ability to push tax policy, was protected by significant formal and informal norms, and was comfortable with the tax credit tool goes a **significant** way to explaining why the provisions of the EITC took the form they did. These committee differences are starkly different from the enactment of the minimum wage, for two reasons. The first is that while committee power was used to shelter the EITC, the extremely strong House Rules Committee was used to block consideration of the minimum wage. A divergence of goals. The second is that, for the most part, floor preferences dictated much of the fate of the minimum wage bill. Several majoritarian techniques were used to advance and delay the bill that were independent of committee power – a very different situation than



the enactment of the EITC.

Together, I suggest that the evidence presented describes a situation consistent with what Hacker and Pierson call a Downsian framework. We see a focus on classical mechanisms of Congress – committee power, decentralized agenda setting, and consensus formation in early legislative stages. There were limited outside interests involved in the process and in fact, legislators were hostile to them in the committee. Further, the process was not partisan or polarizing. In short, the enactment of the EITC fits well with the Downsian framework of politics.

## Chapter 4

# Weak Coalitions and Structural Disadvantages: Congress and Raising the Minimum Wage

The previous chapter showed how congressional organization and ideological distribution between parties affected the passage of the federal minimum wage. Congress produced a minimum wage with a low wage floor that did not automatically adjust for inflation and was available to very few Americans. The decisive factor that resulted in such a situation was the split between left and moderate leaning labor federations. This chapter shows how changes in congressional context impacted the wage's provisions between 1938 and 2016. It also suggests that the evolution of the minimum wage intensified some of its 'organized combat' traits. Specifically, the program became more partisan, the most important actors moved from the committee to the floor, and the intensity of the conflict grew.

In describing these events, I break the history of the minimum wage into three eras. In the first period, expanding the wage in any meaningful way meant overcoming the conservative coalition. In the second period, the influence of the advocates grew in size and power as Congressional parties began sorting and altering the structure of Congress. To that end, the second period was a period

of transition for Congress as an institution and one of growth for the wage. In the third period and due to the increased centralization of Congressional power started in the second period, wage expansions often required overcoming powerful floor procedural control and/or filibuster pivots and are often extremely partisan affairs.

More specifically, the first section of this chapter suggests that a hostile congressional context reinforced the choices set up at the beginning of the program. Between 1938 and 1960, the conservative coalition leveraged a powerful committee system to prevent reforms to the federal minimum wage. This bipartisan alliance also adopted several hostile floor amendments which undermined the ability of program advocates to increase the coverage of the program. Program opponents succeeded, in part, because they were able to control the House Rules Committee and force sympathetic rules while also being able to form a coalition on the floor to support conservative amendments or derail legislation. As such, only one major set of changes to the federal minimum wage passed during this period. It increased the wage by a small amount while decreasing the already limited coverage.

The second section shows that changes in the congressional context between 1961 and 1980 facilitated large expansions of the wage and its coverage provisions. Increases in the cohesion and size of the pro-wage coalition, changes in the organizational structure of Congress, and an increasingly well sorted party system diminished the power of the conservative coalition. Organizationally, the period included several institutional reforms that removed many of the protections afforded to standing committees and their chairs, starting to limit the effectiveness of conservative Democrats. In addition, the bipartisan aspects of the conservative coalition began to break down and more conservative MCs were more likely to be Republicans, while more liberal MCs were more likely to be Democrats. Consequently, the weakening of opposed interests allowed for wage advocates to win a series of wage battles and most workers became covered by minimum wage protections in this period.

The third section examines the contemporary era of heightened partisan conflict and unorthodox lawmaking since 1980. Wage advocates and opponents were sorted into partisan camps, making partisan control of congressional institutions more important. Wage expansions now required partisan floor majorities and, increasingly, super-majorities. This reinforced the need for advocates to have procedural control; without it wage reforms become extremely difficult. Three reforms occurred with two of those accomplished through unified partisan coalitions. The third period is one of high-stakes and high profile power politics where the policy is both a wage floor and a partisan weapon. The trajectory of the federal minimum wage suggests that the congressional context affects the initial adoption and subsequent evolution of a policy. Contextual changes either can increase or decrease the likelihood of meaningful reforms. Consequently, coalition unity and the distribution of institutional power can be especially important for programs that are not designed to, or simply fail to, generate self-reinforcing feedback effects.

Together, these insights suggest that several of the traits associated with the ‘organized conflict’ model intensified over time as Congress evolved. The first of those ways is that the type of organized combat that was present at enactment, which was bipartisan and had significant moving parts, became more partisan and much of the conflict was reduced to just a partisan dimension. A second and related component is that the theatrics got much bigger. Democrats would shut down the Senate floor, they were willing to defund the Iraq War, they tied wage increases to ‘must pass’ bills despite significant Republican opposition. In short, the political stakes became much larger. The third is that the pivotal actors moved from the committees to the floor. Much of the battle over the minimum wage occurred on a chamber floor while trying to win chamber or party medians. All three of these traits suggest that the program developed into a more intense ‘organized combat’ program.

## 4.1 Formative Years (1938-1960): Conservative Coalition Dominance

Between 1938 and 1959, advocates tried to expand both the wage and the number of people it covered, but were always stopped or forced to accept much less ambitious plans than seemed possible at the outset. The 1940s saw two reform attempts thwarted by Congressional conservatives before the first set of amendments was adopted in 1949. In the 1950s, President Eisenhower favored small wage increases coupled with moderately large coverage increases; even so, the one wage increase of the decade did not expand coverage. This early period ended with Sen. John Kennedy (D-MA) seizing the role of the minimum wage's leading advocate, with Kennedy unsuccessfully fighting against the notion that wage reform could not include coverage increases.

In terms of coalition building, early wage increases most often gained enough votes for passage by avoiding increases in coverage, and sometimes by expressly excluding more occupations.<sup>1</sup> This strategy was a response to the ability of the burgeoning conservative coalition (those favoring increased exclusions) to block legislation in committee or attach poison pill and weakening amendments on the floor. While liberals generally tried to increase coverage at the start of a given wage battle, they always abandoned the coverage changes to get a wage increase. Consequently, until 1960, program advocates were unable to secure both a wage increase and a reduction of occupational exclusions at the same time. Conservative coalition members remained deeply opposed to expanding coverage and the occupational exclusions won during the 1938 enactment fight were of central concern. Most Republicans thought that wage protections would lead to higher business costs and southern Democrats worried that the inclusion of domestic and agricultural workers would put stress on the economic components of the racially hierarchical system in southern states. Key program advocates like arch

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<sup>1</sup>As I described in the earlier minimum wage chapter, no wage was possible without excluding huge groups of workers and those groups were disproportionately black and female.

New Dealer Sen. Claude Pepper (D-FL), were therefore unwilling to scuttle any prospects of a wage increase over reduced exclusions.

Outside of Congress, the first 20 years of the program are a period of interest consolidation for labor groups and one of mobilization for business groups. Every time hearings occurred, dozens of pro-business groups testified against the increase or asked for targeted exemptions to remove their business from the wage protections. For instance, the President of the National Retail Dry Goods Association testified at the 1948 hearing that “It seems incredible to me that you men in Congress should even consider seriously for one moment moving into these local situations to force substantially increased costs on local retailers who can do nothing other than pass them on to the public” (1948 hearings). In fact, during the debate that led to wage increase to \$.75, only three business groups testified in favor of raising the wage while 13 retail groups, 22 service industry groups, and 17 farm groups formally testified for continued or increased exemptions from FLSA protections (CQ 1948). Labor also unified very rapidly. The AFL became a strong supporter of wage protections and the AFL-CIO, which re-merged with the CIO in 1955, continued that support.<sup>2</sup> During the wage increase hearing held by Republicans during the 80th Congress in 1948, the AFL’s legislative representative Walter Mason called for a \$.75 increase and said the wage should be “extended to chain stores, large retail stores, seamen, and industrialized agriculture” (CQ 1948). This suggests that the concerns they had over the wage floor legislation in 1938 had abated. Organized labor, consistently advocated for higher wages and fewer exclusions throughout the period, but was only mildly successful in that endeavor. In general, the tensions fostered by the AFL in 1938 had healed and business deference towards New Dealism had abated.

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<sup>2</sup>The major reason for the reunion is that the underlying philosophical divide between the two unions had weakened. The AFL started letting in industrial unions within the federation, drastically broadening the scope of workers they represented. Recall that the AFL did not represent low skill workers in 1938, but since most of the workers who were left out from federal wage protections were low skilled workers, they decided to advocate for them in order to help them gain collective bargaining privileges. Consequently, the AFL became a larger tent group.

### 4.1.1 Early Failed Attempts

President Truman failed in two different congresses trying to persuade Congress to increase the wage floor and expand coverage before gaining passage of a bill with minimal reform. Both of the pre-1949 failures were impacted by the conservative coalition. The first failure was directly caused by C.C. elements on the House Rules Committee while the second failure came at the hands of trying to expand the number of workers included and general Republican disinterest in expanding the wage. These failures suggest that the conservative coalition remained an important power in the early post-enactment period.<sup>3</sup>

The first bill Truman advanced in 1946 would have raised the wage from \$.40 to \$.65 cents and included agricultural workers and retail workers under wage protections. It was ultimately stymied by the conservative coalition voting bloc in the House Rules Committee and the conservative coalition on the floor of the Senate. The Senate took up Truman's bill first and quickly passed it out of the Senate Education and Labor Committee in line with what the administration wanted. The decisive moment came on March 29th, 1946, when the Senate adopted (43-31) an amendment that allowed the inclusion of farm labor costs when setting parity prices for farm products, which was essentially an early form of farm subsidies. Sen. Richard Russell Jr. (D-GA) thought that parity prices were too low and the only way to get them was to attach it to an Administration bill. President Truman immediately announced he would veto the legislation over the Russell amendment as he viewed the legislation as inflationary.

Russell, a key member of the Senate contingent of the conservative coalition, possibly offered the amendment in an effort to give southern and agriculturally conservative Senators cover to vote against the wage increase.<sup>4</sup> As we can see in

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<sup>3</sup>An additional factor worth mentioning is that the industry committees approved in the original wage protections bill had been used to speed up the wage increases to the maximum allowed. By 1941, 17 industrial committees had increased the minimum wage for over 700,000 workers and had gotten wage increases faster than the statutory increase mandated, and by 1945 over 70 industries had seen faster minimum wage increases impacting 1.6 million workers. All together, there might have been a lack of demand by advocates.

<sup>4</sup>For some southern Democrats, they wanted to appear to be in favor of 'the working man'

Table 4.1: 1946 Attempt: Senate Votes

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote
		First Attempt: <sup>5</sup> Final: 51-38 GOP: 24-11 Dem: 27-26 ND: 7-23 SD: 20-3	
		Second Attempt: <sup>6</sup> Overall: 51-42 GOP: 25-12 Dem: 26-29 ND: 7-25 SD: 19-4	
1946 Attempt	Unclear, probably voice vote		None

table 4.1 the Democratic Party was evenly split with a strong regional divide (20-3 for among Southern Democrats and 7-23 against among northern Democrats). In response, program advocates led by Sen. Pepper (D-FL) offered a compromise amendment that eliminated all extensions of coverage and reduced the proposed minimum wage from 65 to 60 cents on the condition that the veto-bait amendment was removed. The Pepper amendment was adopted nearly universally (76-6) before Sen. Russell re-offered his amendment and it was adopted again with essentially the same coalition (7-25 among northern Democrats and 19-4 among Southern Democrats). The revised bill, including the Russell amendment, passed by voice vote and sent to the House.

In the House, the Rules Committee never granted the bill a special rule and the bill was never given floor consideration. As I described in the enactment chapter, the denial of a special rule to block floor consideration was one of the most famous tools at the hands of the coalition. While Chairman Adolph J. Sabath (D-IL) was a New Dealer, he was unable to overcome committee members Howard Smith (D-VA) and E.E. Cox (D-GA), C.C. members who worked closely with Republicans but were focused on racial politics. By making the vote about farm subsidies they were able to oppose a wage or coverage increase, but claim it was for agricultural reasons.



to block administration bills (CQ 1946). CQ Conservative Coalition scores, which track votes where the C.C. formed and the rate of members voting with the C.C., do not go this far back, but six of the eight Democrats are southern, so even with a diminished Republican presence on the committee, Chairman Sabath had his work cut out for him (Congressional Directory, 79th Congress).<sup>7</sup>

The second attempt came in 1948, during the infamous ‘Do Nothing Congress.’, which was the 80th Congress. Republicans held 51 Senate seats (as compared to 38 from the previous Congress) and 248 House seats (as compared to 191 in the previous Congress) or around 56 percent of the House. In other words, President Truman proposed to raise the wage to \$.75 (with industrial committees allowing industry specific wages to climb to a dollar if appropriate) and to expand the number of people covered by FLSA protections. He called for expanding the wage in his State of the Union address. However, given the Republican control of Congress – Truman would have significant difficulties. Two bills were introduced in the Senate, one based on the administration’s bill and the other based on the committee minority report from the failed 1946 attempt. The Republican plan called for a \$.60 wage with flexibility up to \$.70. This effectively codified what the committees had already done, but not much else. Two days of hearings were held in the Senate Labor and Public Welfare Committee (which was chaired by Sen. Robert Taft (R-OH), the Republican leader of the conservative coalition), but nothing came of the hearings. Sen. Taft said that it was too late in the session for both houses of Congress to pass their respective bills and deal with any differences.

On the broadest level, these two incidents suggest that the way coalitions are empowered significantly affects how a program develops. In these cases, the opposition was more unified and more empowered than the proponents. This was both because of the regional split in the Democratic Party, but also because

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<sup>7</sup>Membership of the Rules Committee in the 79th Congress was Adolph J. Sabath (D-IL), E.E. Cox (D-GA), Howard W. Smith (D-VA), J. Bayard Clark (D-NC), John J. Delaney (D-NY), William M. Colmer (D-MS), Joe B. Bates (D-KY), Roger C. Claughton (D-MO), Leo E. Allen (R-IL), Earl C. Michener (R-MI), Charles A. Halleck (R-IN), Clarence J. Brown (R-OH).

Republicans maintained majorities in both Congressional chambers. Additionally, we can see that the types of powers that are afforded to that coalition can be important too. In this case, the C.C. leveraged congressional institutions that underpin the status quo bias of American politics. Consequently, advocates failed at overcoming those forces.

### 4.1.2 1949 Changes

Finally, after Truman's third state of the union included a call to raise the wage, he signed the Fair Labor Standards Amendments of 1949 on October 26, 1949. The final bill, as enacted, raised the wage to \$.75 cents, but added more coverage exemptions. Truman lamented this fact in his signing statement,

“I regret that the new act exempts from its provisions some workers who have been covered heretofore and that it fails to extend coverage to many other groups of workers who need its protection. But the improvements made by the new act will go far toward achieving our basic purpose of assuring minimum labor standards necessary for health, efficiency and general well-being of workers” (Truman 1949).

The 1949 FLSA amendments were an important set of changes to the law in the sense that they helped define what the conflict for wage expansions would entail. The previous two attempts in the 40s had failed, at least in part, due to the link between wage increases and occupational expansions. Of course, the C.C. was able to use its power to scuttle any expansion in both of those cases, but they were unable to stop the legislation in 1949, successfully focusing on expanding the coverage expansions. That said, at the time of introduction, Truman and liberal wage advocates were still attempting to achieve both a wage and coverage increase. The introduced bill sought to raise the wage to \$.75 and included a provision expanding coverage to industries ‘affecting interstate commerce’ whereas previous coverage only included firms engaging directly in interstate commerce.

The bill also tried to reincorporate the industrial committees used in the original 1938 bill.<sup>8</sup>

The political situation through which advocates pushed the 1949 wage reform was one in which Democrats had nominal majorities in both Houses of Congress (the 81st Congress). That said, the newly resurgent Democrats were still beholden to the southern members. In the House, 121 of the 263 Democrats (45 percent) were from the south, as were 24 of the the 57 Democratic Senators (42 percent). On the Rules Committee, four of the eight Democrats were Southern (with four Republican members).<sup>9</sup> On the important House Education and Labor Committee, of the 16 Democrats, six of them were Southern (with nine Republicans). This suggests that the structural constraints of this particular Congress were not positive for overly liberal wage reform.

In addition to the large southern bloc in the Democratic Party, labor advocates both outside and within Congress were under stress due to the recent passage of the Taft-Hartley Act, over President Truman's veto. Taft-Hartley, which many in the labor movement viewed as a full frontal attack, outlawed numerous labor practices including several different types of strikes and the practice of forcing businesses to only hire union workers, forced union leaders to swear they were not communist agents, and guaranteed the right of an employer to oppose unions. So in addition to spreading tangible labor resources thin, there was a significant debate about whether Congress should first repeal Taft-Hartley or expand the wage. House leadership wanted to make the FLSA amendments first while the

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<sup>8</sup>The industry committees enacted by the FLSA in 1938 had sped up the wage increases, but they were legally prohibited from mandating a minimum wage that was outside of the statutory limit. The Wage and Hour bureau in the Department of Labor responsible for working with these committees were supporters of using these committees to provide 'flexibility' and it was becoming clear that the bureaucratic flexibility was being used solely to speed up the growth in the minimum wage by administrators. As such, while it will retain some favor among advocates, starting with this set of amendments, the wage is always statutorily set without any bureaucratic flexibility.

<sup>9</sup>Committee Membership included Adolph J. Sabath (D-IL), E.E. Cox (D-GA), Howard W. Smith (D-VA), William M. Colmer (D-MS), Ray J. Madden (D-IN), John E. Lyle Jr. (D-TX), John McSweeney (D-OH), James J. Delaney (D-NY), Leo. E. Allen (R-IL), Clarence J. Brown (R-OH), James W. Wadsworth (R-NY), Christian A. Herler (R-MA)

Senate Democratic leadership wanted to repeal the Taft-Hartley Act first. At the same time, the Senate membership was deeply divided on repealing Taft-Hartley so Labor Chairman Elbert Thomas and Senate wage champion Claude Pepper pushed for a quick increase in the wage.

It is within this complicated context that the 81st Congress set about trying to increase the minimum wage and expand wage coverage. The House moved first, but was dragged through the committee process with Democrats splitting along regional lines on most differences. The Labor committee chairman, Rep. Lesinski (D-MI) was unable to overcome the Conservative Coalition voting bloc in committee and they passed legislation with deep cuts to coverage and only modest wage increases. Lesinski was committed to getting the bill passed through, so he engaged in a significant and complicated set of maneuvers to ensure the administration bill reached the floor. He introduced four different bills, including the original one that was heavily amended in committee by conservative coalition. The eventual bill that reached the House Rules Committee was that bill, however, the committee adopted a strange rule for floor consideration. The rule behaved like a self-executing rule, where once the rule was adopted by the House, the administration bill was adopted as a substitute amendment, replacing the weakened bill that passed committee. This provoked significant controversy, since the conservative elements of the Rules Committee seemed to not fully understand the rule, which became a point of contention on the floor ([Almanac 1949](#)). In any case, labor advocates survived the Rules Committee (albeit using a non-repeatable strategy) and got the bill to the floor.

Once the legislation reached the House floor, it seemed clear that some sort of bill was going to pass (NYT 1949). The appetite for a wage increase among liberals was significant, so conservatives switched their strategy from blocking the bill to trying to water it down as much as possible.<sup>10</sup> This, of course, was a time

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<sup>10</sup>Not all conservatives switched strategies. Rep. Gwinn (R-NY) asked for the help of God to kill the legislation which prompted a humorous retort from Rep. O'Sullivan (D-NE): "I now ask the gentleman in seriousness: Who do you think God is? The Republican Party, the apostate Southern Democrats, or the Committee on Constitutional Government, or all three,

tested strategy for them. The main thrust of the CC's effort came as a substitute amendment offered by Democratic members of the conservative coalition. The substitute was adopted 233-189, with the regional split among Democrats very noticeable. Southern Democrats voted for it 77-37, northern Democrats voted against it 6-136. At the same time, the Republicans favored it 150-14.

The adopted substitute stripped out all proposed coverage extensions and included more exclusions, but left the overall wage of \$.75 the same.<sup>11</sup> This was the crux of conservative opposition to wage expansions. They did not want labor protections applied to certain groups of people. To some MCs, that meant minority or women workers. To others, that meant business interests which had a large presence in their district or were adept lobbyists. After the adoption of the amendment and referring back to appendix, the bill passed the next day 364-38, with 24 Southern Democrats, 0 Northern Democrats, and 14 Republicans voting against.

In the Senate committee process the strategy among advocates was much clearer – they wanted a higher wage and were willing to sacrifice the coverage issue to get the wage. The Senate Labor Committee essentially acquiesced to House demands. They gave the federal government the authority to sue for back wages on behalf of afflicted workers, but only provided minimal increases to the number of people covered, extending protections to certain farm workers. The provision increasing wage protections to those working in industries ‘affecting’ interstate commerce (as opposed to those directly engaged in interstate commerce), favored

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thus making a new Trinity?” (*Almanac 1949*, pg. 488) In the 81st Congress, Rep. O’Sullivan was a freshman and already had the view that the conservative Democrats worked in tandem with Republicans to stymie Democratic priorities.

<sup>11</sup>It is worth noting that earlier in the negotiations; some conservatives had floated a compromise piece of legislation. The issue to conservatives in this Congress was not necessarily to block a wage increase, it was to ensure that coverage was not extended to more workers. A secondary concern was that the Truman wage increase that looked likely to pass essentially doubled the wage in one fell swoop. Conservatives, therefore, argued that the minimum wage should be increased to \$.65 cents an hour and that the wage should be tied to the CPI. Advocates were hostile to the compromise because they wanted to both be able to adjust the minimum wage unencumbered by automatic inflation links and also they had not given up on expanding coverage.

by liberals, was nowhere to be seen. That language already had been excised in the House by the C.C. substitute amendment.

Once the bill reached the Senate floor, advocates seemed to realize expansionary reform was dead. Senator Pepper lamented that the current bill was the only thing they could get passed: "...the committee brings this bill to the Senate at the present time, stripped, as it is, almost to the very bone and relieved of almost all controversies . . . in the hope that we may get this bill through this session of the Congress" ([Almanac 1949](#), pg. 440). Another sign that the bulk of the bill was significantly weaker than liberals would have wanted was that even Senator Taft defended the bill, specifically, the wage level ([Almanac 1949](#), pg. 440):

"Of course, the proper minimum wage for us to decide upon is a guess. Perhaps \$.75 an hour is a little too high; perhaps it is too low. I do not believe anyone can tell. Yet from all the circumstances and from the evidence before the committee, it is my impression that a \$.75 minimum wage in interstate commerce, which is all we can effect, is not going to put anyone out of business or out of work. I believe it is a safe figure."

It is with this bipartisan support for the weakened bill that they passed it, by voice vote and sent it to a conference committee. Deliberations in conference were uneventful, but the bill that came out excluded between 500,000 and a million additional workers and was passed in the house 131-19 and via voice vote in the Senate ([Almanac 1949](#)). Truman signed the law on October 26th and the first federal expansion to the federal minimum wage was in the books. Labor advocates said \$.75 cents was not enough and would set forth trying to get the wage raised even more, but the early boundaries of the conflict were locked in. It will not be until 1961, 22 years after the enactment of the legislation, that Congress is able to overcome conservative opposition to both raising the wage and including new occupations.<sup>12</sup>

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<sup>12</sup>In thinking about wage debate in the 1940s generally, one other consideration worth considering is the lack of aggression by labor in pushing wage advancements. One big reason for this

### 4.1.3 1955 Changes

As we move from the 1940s to the 1950s, we see a period of Republican Congressional majorities without any serious push for wage increases, but when Democrats took Congress in 1954, President Eisenhower called for both a wage increase and a coverage expansion in his state of the union. Labor Secretary James Mitchell supported expanded coverage and timely increases to the wage and he had convinced Eisenhower that modest increase to both would not be inflationary (Guzda 1991). The call came as an increase to \$.90 cents and called for the inclusion of retail and service workers doing more than 50 percent of their business in the state a given business is incorporated within.

The administration bill that was introduced in Congress had the wage increase Eisenhower and Mitchell wanted, but not the coverage expansion. In a slight change from previous conflicts, nearly everyone agreed that a coverage expansion was off the table and the debate focused on how much a wage increase to enact. President Eisenhower was pushing a wage increase during the 84th Congress which had a slim Democratic majority in the Senate and a moderately large majority in the House. That said, Southern Democrats still made up around half of the party in both chambers and a significant plurality of them were Conservative Coalition members. This regional split, their voting bloc with Republicans, and their institutional advantages are why the bill signed by the President only raised the minimum wage to \$1.00 an hour with the occupation inclusions jettisoned once again in order to salvage a passing bill.

Organized labor was increasing, showing leadership favor of an expansive wage policy. United Steelworkers President David McDonald testified that it was “shameful and a disgrace to America that some workers earn as little or less than \$.75 an hour” (Senate FLSA Hearings 1955, pg. 449). Moreover, not only was \$.75 cents unacceptable, so was President Eisenhower’s \$.90 cent suggestion.

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is probably the lack of demand among clientle groups. The wage committees set up originally were still expanding the wage up to the limit that had been statutorily set. A second reason is that organized labor was still in the midst of dealing with the merging of the CIO and AFL, which may have reduced their efficacy.

AFL President George Meany testified that:

“The Administration is basing its recommendation [\$.90 cents an hour] primarily upon changes in the cost of living. In effect the administration is saying to our low-paid workers that they cannot ever look to any improvement in their living standards. This is tantamount to saying to them ‘What you had yesterday in the way of food, clothing, and shelter is what you will have tomorrow.’ If we were to carry this theory throughout our economy we would in effect be saying that no one could have a new automobile or a refrigerator unless he had one before. This is certainly not the principle on which the American economy has achieved its greatness” (Senate FLSA Hearings 1955, pg. 107).<sup>13</sup>

To that end, organized labor strongly supported raising the wage to \$1.25 an hour. The skilled/unskilled labor distinction that had plagued union politics during the enactment of the minimum wage was gone as nearly all labor testimony called for a \$1.25 dollar an hour wage ([Almanac 1955](#)). This uniformity reflects the trajectory of union politics. As I noted earlier, organized labor rapidly moved past its conflicts over the enactment of the FLSA to support federal labor protections. By the end of 1955, the AFL and CIO schism would be mended and both groups of unions would be represented under the joint banner of AFL-CIO. Labor was also strongly in favor of trying to expand the number of groups covered by the wage as quickly as possible. AFL President Meany testified that he supported the proposal to include workers ‘affecting commerce,’ those who worked in chain retail stores, and agricultural workers employed by large mechanized farms under federal wage protections. On farm workers specifically, President Meany said that “[c]overage under the Fair Labor Standards Act is completely denied to agricultural workers. Yet no group of workers is more in need of the act’s protection. They have no bargaining power and they are completely at the mercy of their employers” (Senate

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<sup>13</sup>Additionally, CIO President Walter Reuther testified that the “90-cent recommendation is further evidence of the economic rut the present administration has adopted as national policy.” (Senate FLSA Hearings 1955, pg. 305)



FLSA Hearings 1955, pg. 111).

Business groups were mostly opposed, but less uniform than organized labor. All business groups who testified opposed the \$1.25 wage and only one supported President Eisenhower's \$.90 dollar an hour plan. Emerson Schmidt, of the Chamber of Commerce testified (Senate FLSA Hearings 1955, pg. 711) that “[w]e doubt the wisdom of any increase [in the wage] at all . . . [e]ven an increase to 90 cents would have dis-employing effects and raise costs and prices to consumers.” Other business groups actively sought to ensure labor protections would not be extended to their industries. James Moore of the National Automobile Dealer's Association, for instance, testified that “[An] extension of coverage [to automobile dealerships] would have discriminatory effects [upon our business]” (Senate FLSA Hearings 1955, pg. 852).

With the stage set, and the Eisenhower administration forging a difficult middle path, the Senate took up the bill by holding extensive hearings. Labor Secretary Mitchell testified that the Administration would only support a \$.90 wage increase and that even expanding it to a dollar would “cause very serious adjustments in some industries.” Ultimately, the Senate Labor committee favored a more expansive wage increase and the administration proposal settled upon a \$1.00 wage. Labor and Welfare Subcommittee Chairman Paul Douglas (D-IL) announced that any discussion “dealing with coverage or exemptions” would be too complicated and said he hoped they could take up Eisenhower's proposed coverage changes next session (CQ 1955, pg 5). The Committee endorsed the bill via voice vote and the Senate then passed it without amendment. The bill increased the wage to a dollar, required certain reports to be published concerning industrial recommendations for a wage level, and raised the wage in Puerto Rico to at least \$.25 an hour.

Once the bill passed the Senate, the House Education and Labor Committee held their own hearings where much of the conflict mirrored the Senate. Union officials said the \$.90 was unacceptable and a dollar was merely sustenance levels.

Additionally, Under Secretary of Labor Arthur Larson reiterated the administration's request for expanding wage coverage (CQ 1955, pg. 5). As in the Senate, the brunt of labor testimony focused on getting the wage expanded, while the brunt of business testimony focused on increasing or maintaining exemptions. The bill that was sent to the Floor was a dollar wage (in line with the Senate bill), via voice vote, with no other provisions attached. When the bill reached the House floor, the Rules Committee allowed only a few amendments to be considered. One was the Presidential plan, and another lowered the wage increase to \$.90 without any coverage expansions. All three amendments were rejected in closed non-recorded votes, and the bill was sent to conference overwhelmingly (365-56) with around 30 percent of Southern Democrats making up the biggest opposition voting bloc.<sup>14</sup>

After passing out of Conference, both chambers passed the legislation via voice vote. Eisenhower signed the legislation, but Labor Secretary Mitchell said that the Administration proposal had been preferable because it would have 'given many millions of low-paid workers the protection they need[ed]' (*Almanac 1955*, pg. 326). The 1955 debate highlights the inability of wage advocates to overcome the Conservative Coalition's grasp of institutional power. The wage increase without occupational expansions bargain had been so obvious to members of Congress that no one really put up a prolonged fight over the exclusions. In other words, the legislation was adapted to the C.C.'s position in the Congressional agenda setting stage, suggesting they had de facto control over the agenda (see *Jenkins and Monroe (2014)*).

#### 4.1.4 1959/1960 Attempt

The last attempt at wage reform in the early period occurred in 1959 with the de facto compromise of wage increases without increasing coverage used in previous

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<sup>14</sup>A minor regional split appeared with Southern Democrats voting 77-37, but the vote was so overwhelming and contained bipartisan support, the split was insignificant. (Poole and Rosenthal RC Vote 27).

wage expansions coming under full assault by advocates. It also represents one of the final exhibitions of power by the C.C. as it relates to the wage. Consequently, in 1959 no wage bill would be sent to the President, despite receiving conference committee consideration, the major reason being advocates rejecting the compromise that C.C. members had established early on consisting of the minimal wage expansions coupled with no exclusion reductions. In this way, the 1959 attempt represented a significant attack on the C.C. controlled status quo by advocates.

The bill under consideration in 1959 is an amalgamation of AFL-CIO priorities and pushed primarily by Sen. John Kennedy (D-MA) in the Senate and President Roosevelt's eldest son Rep. James Roosevelt (D-CA) in the House.<sup>15</sup> The bill sought to expand coverage of the wage to retail workers (and other groups) and increase the wage to \$1.25 an hour. The biggest change sought to modify the base coverage language regarding protections from occupations "engaged" in interstate commerce to "engaged in activities affecting interstate commerce," which increased the pool of industries that could be regulated tremendously. It also included a coverage clause dealing with the annual amount of business a firm did called the establishment provision, which in this bill was 50,000 dollars of revenue a year. Ultimately these coverage changes would have increased the number of covered workers covered from 24.3 million to 35 million.

Initially, President Eisenhower opposed the legislation because of the wage increase. However, the administration eventually came to occupy the middle space again once they conceded that the 1955 wage increase had largely been absorbed by business and an increase of 10-15 cents would be acceptable. Even with the President's support, the C.C. successfully limited the changes to the exclusion language. After the bill got to Conference presumptive Democratic Nominee (and Senator) Kennedy dropped his efforts because of his unwillingness to continue accepting wage increases without coverage expansion.

Legislatively, the House held the first committee hearings. Labor interests

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<sup>15</sup>I refer to it here as the Kennedy bill because Kennedy emerges as the main advocate for it, especially after he clinches the Democratic nomination for President. There is also the not inconsiderable fact that he becomes President.

strongly supported the bill. AFL-CIO President George Meany testified that \$1.00 wage was “far too little to maintain the minimum standard of living necessary for the health, efficiency and general well-being of workers” (*Almanac 1960*, pg. 312). Conversely, business interests opposed the expansion of worker protections as an encroachment on businesses not impacting interstate-commerce. National Retail Hardware Association representative Russell Mueller testified that the inner workings of hardware stores were “so local in character that they are not susceptible to controls designed for nationwide application” (*Almanac 1960*, pg. 314).

The bill that passed out of the House Education and Labor Committee, 19-9, did not have a strong regional break. All the Democrats except Rep. Phillip Landrum (D-GA) voted for it and two northern Republicans voted for it as well. In this particular Congress it is not surprising that it gained bipartisan support as the House Education and Labor Committee was not really a bastion of conservative coalition members. Three of the four southern Democrats on the committee had significant C.C. voting scores – Chairman Garahm Barden (D-NC) and Rep. Landrum. At the same time, Rep. Carl Perkins (D-KY) actively voted against the C.C., earning a 82% opposition record (*Almanac 1959*). Combined with their bloc’s relative size, they did not have significant sway. The legislation retained the framework of the Kennedy bill, including the ‘industries *affecting* interstate commerce’ clause and the ‘establishment provision’ raised to a million dollars a year. The major change from Kennedy’s plan was that several industries had received ad hoc exclusions from wage protections – typical for the period. Even so, allowing such a liberal change to the base coverage provision would be a significant win for liberals.

Things would not go so easily in the Rules Committee, however. By this point, Howard W. Smith (D-VA) had become the House Rules Committee Chairman. While he is most famous for trying to delay civil rights legislation, he also strongly opposed most New Deal labor legislation. More importantly, he was a central member of the C.C. and the Rules Committee remained a significant barrier to liberal legislation. To that end, of the Democrats on the committee, two had high

C.C. support scores, two had middling scores, and three had low scores. Combined with every member of the Republicans having high C.C. support scores, it is easy to imagine tight coalitions where the C.C. formed in committee.<sup>16</sup> In this case, the House Rules Committee gave the 1959/1960 amendments a modified open rule that expressly allowed for a conservative coalition substitute offered by Rep. Alvin Kitchin (D-NC). The substitute was in line with what the Administration desired a raise in the wage to \$1.15 an hour coupled with including employees at retail chain stores (but at the cost of excluding different workers from protections), with the ultimate number of inclusions somewhere between 500,000 and 700,000 new workers (as opposed to the four million Kennedy’s bill contained).

Accordingly, floor debate drew sharp words from both sides. Rep. Roosevelt (D-CA) knew that the Kitchin amendment sought to split the Democrats among regional lines, saying on June 30th “I think it is significant that the Kitchin amendment is really the [Republican] bill [and] they felt it expedient to try to get a Democrat to also introduce it in order to recreate the long-time coalition” (*Almanac 1960*, pg. 317). Roosevelt would accept the \$1.15 wage structure if the opponents accepted the blanket worker inclusion language. They would not. Additionally, the conservative coalition position was strongly opposed to the coverage. As admitted by Rep. Charles Goodell (R-NY), they opposed Democratic attempts to include new workers in this manner because it strayed from the historical ‘interstate commerce’ interpretation that wage designers had relied upon to avoid Court action:

“[The bill sponsors] have been so enthusiastic for this bill and have been very very reasonable in making concessions and adding exemptions. They want to get the bill through. I must say I suspect the

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<sup>16</sup>Membership of the House Rules Committee and their respective conservative coalition score in the 86th Congress included: Howard. W. Smith (D-VA) as Chairman, 97, William M. Colmer (D-MS), 93 Ray J. Madden (D-IN), 7, James R. Delaney (D-NY), 3, James W. Trimble (D-AR), 50 Homer Thornberry (D-TX), 53, Richard Bolling (D-MO), 3, Thomas P. O’Neil, Jr. (D-MA), 3, Leo E. Allen (R-IL), 100, Clarence J. Brown (R-OH), 93 B. Carroll Reece (R-TN), 87, Hamer H. Budge (R-ID) 93.

reason they are doing it, is that their bill for the first time establishes in this Congress the responsibility of the Federal Government to move into any enterprise which is engaged in an activity affecting commerce. This is so important to them that they are willing to concede almost anything to get it. If we say that Congress has such a responsibility to invade purely local situations, we will have no defense from federal invasions in the field hereafter.” ([Almanac 1960](#))

The Kitchin amendment was adopted, 217-209 (with northern Democrats split 6-162 against and Southern Democrats in favor, 86-19.) The legislation, which was a shell of what Kennedy had wanted, then passed the House, 341-72. In the Senate, they retained the core Kennedy provisions relating to coverage, but at the cost of carving out exemptions for specific industries. Even with the exemptions, however, the bill that passed the Senate would include around four million new workers under wage protections. The bill passed out of committee, 12-2, with Sens. Everett Dirksen (R-IL) and Barry Goldwater (R-AZ) voting against it. The aforementioned coverage exemption amendments for groups as varied as motels to home wreath makers were accepted on the Senate floor. At the same time, the Senate beat back large scale substitute amendments, such as a version of the Kitchin amendment, through a coalition of Northern Democrats with ten Republicans (substitute amendment 1956 in appendix). The Senate passed the bill 65-34, with Southern Democrats opposed 11-13 and northern Democrats in favor 39-2.

Having passed both chambers, the legislation was sent to a conference committee where wage advocates rejected the status quo compromise. Despite the House legislation being more expansionary than in previous years, Kennedy and the Senate conferees indicated that they would yield to the House on the wage expansion if the House would yield to the Senate on the exclusion reductions. This was a non-starter to House conferees who proposed several compromises that would have almost matched the net number of workers added to wage protections, but at the expense of removing the ‘industries affecting’ clause ([Almanac 1960](#), pg.

319). Despite the apparent victory and the willingness of the House conferees to compromise, Kennedy did not think it was a big enough victory given that passage of this legislation would have probably meant its removal from the agenda for several years, as had happened with every other wage increase (*Almanac 1960*, pg. 319). Thus, Kennedy expressed lament that they could not work out a bill, but with the House unwilling to acquiesce on coverage issues it was better to do nothing than to yield to House demands. Wage advocates would try again in the 87th Congress. A wage increase bill passed both chambers but was never signed into law.

This is the closing chapter to what I have called the early period. It was a period where conservative Democrats and Republicans were able to outright block wage and coverage expansions and, failing that, they were able to significantly restrict any expansionary changes. Throughout this entire period, conservatives were able to ensure that coverage was not extended to farm and retail workers. Moreover, the early period highlights the ability of a unified and organizationally empowered bipartisan coalition to act as a barrier to reform.

## **4.2 Middle Years (1961-1980): Breakdown in the ‘Status Quo’**

Attempts to couple a wage increase with increased coverage had always been the central part of wage battles, but no coverage expansion occurred until the 1960s. All three successful wage expansions during the “middle years” increased the number of workers, even including the groups most important to southern Democrats—domestic and agricultural workers. Moreover, the premise of federal wage protections only applying to firms doing interstate business also weakened as well. Finally, advocates outmaneuvered opponents and set the minimum wage to its highest real level.

The middle period is one of great change in both the coalitional and organizational parts of the Congressional context. At the start of the period, the parties were still ideologically diverse and a large proportion of the Democratic caucus in both chambers was made up of southern conservatives. By 1980, Congress was in the midst of changes that would eventually end with perfectly sorted ideological parties (Poole and Rosenthal 1997). Similarly, Southern Democrats still commanded significant organizational power, but by 1980 their entrenchment would be significantly reduced. Lastly, the scope of the conflict in this period became much more focused on expanding coverage. There had not been any net increase in the number of workers covered by wage protections from 1938 until 1961.

In terms of the Congressional context, the evolution of conflict concerning the wage mirrors the evolution of conflict within the Democratic party overall. Liberal members in the House had become increasingly agitated with the ability of Southerners to block or weaken liberal legislation. As we saw in the earlier years of the program, wage advocates would have ambitious goals to expand coverage and raise the wage, only to be forced to accept defeat or a very modest increase in the wage with no extensions of coverage because of the C.C.s unique institutional position in committee or on the floor. That is, if the Conservative Coalition was unable to block something in Committee, there was always the possibility that they might form on a floor vote. As we saw in the wage enactment, if you have 20 or 30 Democrats defecting to vote with Republicans, that can be enough to swing a vote. Consequently, in the mid 1970s, Democrats instituted a series of reforms that weakened southern power in the Democratic caucus and Congress. Specifically, the House Democratic caucus instituted elections for committee chairs and some of the southerners lost, while others become more liberal than they had been (Rohde 1991). Other reforms made the House more majoritarian, which resulted in much stronger, more centralized leadership.<sup>17</sup>

The changing Congressional context facilitated coverage expansions even though

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<sup>17</sup>The evolution of the Senate followed these trends as well but on a slightly delayed time line.



advocates had not obtained a dominate position in Congress yet. In 1960, advocates were able to circumvent opponents by peeling off opposed votes with targeted wage exclusions, still resulting in a net coverage increase. In 1966, advocates were able to overpower entrenched opponents despite no major changes to the organizations that empowered them. That said, before the successful 1974 attempt, opponents were able to leverage institutional power to block the House from sending conferees to the conference committee. This delayed the eventual wage expansion until 1974, when President Nixon was on his way out.

#### **4.2.1 1961 Changes**

In 1961, President Kennedy signed a bill that included 3.6 million new people under FLSA protections and gave 4.3 million people a wage increase. Much of the conflict echoed the 1959 attempt. There was a concerted attempt to weaken the legislation on the House floor by conservative coalition members, which passed, but then they were defeated after the Conference Committee legislation stripped it from the bill. This piece of legislation was very similar to what was pushed by Senator Kennedy earlier. The bill raised the minimum wage to \$1.25 over two years and introduced a new mechanism through which coverage would be determined. The so called ‘establishment clause’, which was part of Kennedy’s earlier bill stated that any firm which did over a certain dollar amount of business – regardless of its relationship to interstate commerce – would be subject to minimum wage laws. Different industries had different monetary thresholds (for instance, gas stations grossing over \$250,000 dollars a year, but any firm with over \$1,000,000 in sales regardless of other coverage) and the bill included industry exemptions to win votes late in the process.

The inclusion of a blanket ‘establishment’ clause for coverage was critical for expanded coverage and a political flash point. This clause pushed coverage to be considered the ‘default’ position, and in many ways this is a path breaking development. As President Kennedy said in signing the legislation, the bill “does

not finish (the) job, but it is a most important step forward” ([Almanac 1961](#), pg. 482). In other words, wage advocates scored a major victory despite not being structurally advantaged and they did not do anything to structurally advantage themselves in the future.

Put differently, in many ways the opening salvo of the middle era acted as a disruptive event in minimum wage politics. For the first time, a wage increase and expansion increase pass in the same vehicle breaking down the long lasting understanding on how to achieve wage increases. Additionally, the conservative coalition was subverted because of a new strategy that arose, that of old fashioned horse trading. Kennedy was only really focused on getting the basic coverage expanded and was willing to hand out individual exemptions for legislators to vote for the overall bill. In this way, it undercut the ability of Republicans to win over enough Southern Democrats to stop the legislation. These are significant changes to how wage politics unfold.

The Kennedy wage bill was again introduced by Rep. Roosevelt (D-CA) in the House and followed essentially the same process that it had in 1959. The House Education and Labor Committee held hearings where business interests expressed opposition and labor expressed support. George Hagedorn, speaking on behalf of the National Association of Manufacturers, argued that a higher wage would increase unemployment among the populations that the wage was supposed to aid, “(t)he proposed amendments would have an especially severe impact of the employment opportunities of the very groups who presently have the most trouble finding jobs” (1961 Hearings, 359). Conversely, the President of the United Auto Workers argued that the exclusion of so many workers from FLSA protections and the low minimum wage afforded to those covered rendered them ‘second class citizens. This was especially an affront to him, as America ought to be ‘the land of plenty’ but in ‘good times and bad, second class citizenship can be found throughout our country’ (pg. 168).

The bill that passed the committee remained close to what the administration called for, with a two step raise of the wage to \$1.25 and a modified version of the

establishment clause provision from 1959. The establishment clause provision was weaker than what Kennedy had wanted, with firms needing to meet a monetary threshold while being engaged in interstate commerce, but there seemed to be some comfort with the basic framework. The vote was 19-12 with all Democrats and one Republican voting for the legislation. This vote is not terribly surprising, as in the 87th Congress, there were only 3 Southern Democrats on the committee, so even if all three had been C.C. sympathizers, they could not have sunk the bill.<sup>18</sup> Once the legislation reached the House floor, conservative Democrats and Republicans offered the same poisonous amendment that doomed the legislation in 1960. Now called the Ayres-Kitchin amendment, it was identical to the Kitchin substitute amendment passed in 1960 ([Almanac 1961](#)). It proposed a much smaller coverage and wage increase, including a wage increase to \$1.15 spread out over a longer period, with only around 1.3 million people. As in 1960, Congress accepted the substitute amendment along regional lines, 219-207 with Southern Democrats supporting the substitute 74-32, and northern Democrats opposed 2-149. The weakened legislation then passed the House overwhelmingly, 344-79.

The Senate moved in parallel to the House and held committee hearings in mid-spring. Some union officials were not supportive of the number of steps required to reach the \$1.25 wage in the administration bill, preferring an immediate increase ([Almanac 1961](#), pg. 479). The bill passed out of Committee on a 13-2 vote, with Sens. Goldwater (D-AZ) and Dirksen (R-IL) once again voting in opposition. The legislation kept President Kennedy's establishment provision and \$1.25 wage intact. Senators voted down the Senate version of the Ayres-Kitchin amendment on the floor. The amendment, which replaced the Senate's coverage provision with the House's, was voted down 37-63 with 21-13 in favor among Republicans, 16-8 in favor among Southern Democrats, and 0-42 against among northern Democrats. In addition, Senators voted down an amendment by Sen. Russell (D-GA) to strike all coverage expansion with the same breakdown. The bill then passed the Senate,

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<sup>18</sup>Carl Perkins (D-KY) supported the C.C. 13 percent of the time, Phil Landum (D-GA), 80 percent of the time, and Ralph Scott (D-NC), 77 percent of the time. (87th Congressional Directory, pg 247).

70-31, with 16-19 opposed among Republicans, 11-13 opposed among Southern Democrats, and 39-3 in favor among northern Democrats. As in 1959, the Senate was unsympathetic to House concerns.

Once the House and the Senate met in conference committee, the debate was evidently contentious. It was a closed session, but Congressional Quarterly at the time suggests the Ayres and Kitchin wing of the House conferees were extremely irritated at not having their amendment readopted (CQ1961). House conferees included the two authors of the House substitute amendment, Reps. Ayres and Kitchin, who voted against the conference report because it included the Senate coverage provisions. Despite the inclusion of the broader coverage language, the Conference committee deliberately made targeted exclusions for laundry, certain equipment dealerships, and certain small farm workers. As Rep. Goodell said during the 1959 attempt, the Kennedy position all along was to get the broader coverage language and buy votes with targeted coverage exclusions.

After the compromise legislation returned to the House, a surprising number of people who had voted for the Kitchin-Ayers amendment voted for the more liberal plan that came out of Conference. On the final bill, 18 (16 of them southern) Democrats and seven Republicans who voted against the administration position on the substitute voted for the legislation without the amendment. This suggests that at least some of those who initially opposed the legislation were won over by some of the targeted exclusions. Following the House adoption of the Conference report, the Senate passed the report with essentially the same breakdown used to pass the legislation in the first place (70-30 with similar regional divides). The legislation, as signed by President Kennedy on May 5th, 1961 was the largest single increase in protected workers in the history of the program.

#### **4.2.2 1966 Changes**

Following Kennedy's death, the next wage increase occurred during the 89th Congress, which was one of the major Great Society Congresses. In addition

to expanding the number of people covered under the minimum wage and raising the wage floor, Congress also created Medicaid and Medicare during these years and passed the Voting Rights Act, Higher Education Act, and Freedom of Information Act. From a contextual standpoint, this was made possible by unified Democratic government with super-majorities in both Congresses. In the Senate, there were 68 Democratic Senators, of which 19 were Southern and in the House, there was 295 Democrats, of which 100 were Southern.

The massive surge in pro-government Democrats weakened opponent's ability to resist any wage increase. The conservative coalition's ability to act as a veto point was predicated on leveraging their large percentage of the Democratic caucus to block majority coalitions and on stopping things in committee. In the case of the 89th Congress, the large influx of liberals into the Democratic caucus watered down the Southern Democrats' influence. This was a temporary, but significant change to the congressional context in terms of coalition, cohesion, and size. Northern Democrats successfully fend off the same type of attacks they had been unable to defeat in previous years. For the 89th Congress, the advocates had the advantage of size in a way they had not previously.

Once the 89th Congress started, the most expansive raise in the coverage and the wage in the history of the program was passed before the year was out. The administration plan, which was outlined in that year's State of the Union, became part of the larger War on Poverty. It called for an increase of \$1.60 an hour for non-farm workers and expanded coverage to certain farm workers and provided them an eventual wage of \$1.30 an hour. The wage outlined in the legislation would hit \$1.60 in 1971 for non-farm workers and \$1.30 an hour for farm workers in 1969. The coverage provisions were a direct assault at the previous way of doing business. It repealed specific exemptions for special interests that had been the core of the wage increase compromise in earlier years, targeting among other things, retail workers, taxi drivers, hotel workers, and several types of agricultural workers. Additionally, it reduced the 'coverage provision' established in 1961 to eventually cover workers in firms doing more than \$250,000 dollars of business a

year from \$1,000,000. It also constructed a blanket provision to extend coverage to “enterprise engaged in commerce or the production of goods for commerce.”

In the House, the committee process was quick. The House Education and Labor committee passed a bill in around two weeks. Much of the work had been done in an aborted 1965 attempt<sup>19</sup> and the legislation incorporated the President’s wishes. The Majority report praised the dignity that the minimum wage extended to millions of workers and argued that a further increase in coverage and wages would extend economic freedom ‘for millions of American workers.’ (*Almanac 1966*, pg. 826). On the floor, it passed with a huge margin, albeit with the regional difference among Democrats present at 40-54 opposed, suggesting that advocates were able to overpower opponents with a larger and more cohesive coalition. There were no whole-scale substitute attempts by opponents, but bill managers were successful at fending off several targeted attempts at watering down the coverage provisions. For instance, John Anderson (R-IL) tried to exempt hotel workers from wage protections while Charles Goodell (R-NY) tried to exempt seasonal workers. With the House fighting off dozens of these amendments, one interpretation could be that opponents were simply seeking to persist in the 1961 precedent where parochial coverage amendments were the order of the day. Also, remember that during the original conflict in 1935 had an element where opponents also tried to strategically water down the legislation. Overall though, the lack of a whole scale substitute is a new development.

The process went similarly in the Senate with the bill passing out of committee unanimously, 15-0. The Senate worked with the bill that had already passed the House in order to minimize the amount of uncertainty in Conference. On the floor, bill managers fended off the same sort of coverage attacks that the House advocates had survived. As alluded to during the House accounting, this seems to suggest that opponents are not operating from a place of strength and their older strategy of constructing a substitute to draw out the Conservative Coalition. One

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<sup>19</sup>There is not much to read into for the 1965 not being successful. The Great Society was a monstrous undertaking and the minimum wage was a later addition to the legislative agenda.

major attempt that came from the Conservative Coalition sought to remove all the agricultural coverage, but the amendment failed 37-51 with northern Democrats holding the line at 1-37 opposed. The bill passed the Senate 78-21, with a regional split only moderately present. In a 45-0 vote breakdown, northern Democrats voted for the legislation, while Southern Democrats supported it 12-9 as well. In effect, the Conservative Coalition did not form to oppose the bill. According to CQ's 1966 Almanac, the conservative coalition formed around 25 percent of bills in the Senate which is in line with previous years and won around 50 percent of the bills they opposed. One reason for the lack of opposition might be related to the fact that they were dealing with many fires during the Great Society Congresses. That is, they might have been trying to keep political capital in tact for opposing other things such as the Civil Rights Act of 1966.

The three biggest differences that the conference would need to address were an accelerated non-farm wage increase, an increase in the \$250,000 dollar sale level, and the removal of certain non-professional education workers. On balance, the conference committee decided on the more expansive clauses. They accepted the faster wage phase in and the \$250,000 dollar sale level, but they also excluded the 900,000 non-professional education workers.

Passed out of Conference, the Senate approved the legislation 60-40 with a strong regional split among the Democrats (6-16 with only one Northern Democrat opposing). The House passed the legislation 280- 108, with a similarly strong regional split (36-57 with all but two Northern Democrats supporting the law). Opponents of increased coverage and wage increases lost at almost every step of the way. President Johnson signed the law on September 23, 1966, bringing the number of workers covered to 41.4 million people. As part of that increase, 400,000 agricultural workers were included for the first time, as were over two million hospital workers and 1.7 million retail workers. These were groups that had constantly been targets of southerners, which now had coverage.

### 4.2.3 Richard Nixon and the Minimum Wage

The last wage increase in the middle years occurred in 1974, but before the successful reform event, wage increases were blocked twice. The first time a resurgent Conservative Coalition blocked the House of Representatives from sending conferees to a Conference committee. The second time occurred a year later when President Nixon vetoed the legislation. Only on the third try does President Nixon sign a wage increase. In this event we again see what an impact a cohesive and empowered group can have on a legislative trajectory. More importantly, Nixon's veto is suggestive of the politics to come and shows partially the groundwork being laid. President Nixon was increasingly vulnerable due to the mounting Watergate Scandal and Democrats were, in part, using the wage to be able to push him into politically unpopular corners. If a bipartisan coalition of legislators refused to stand together against the wage, because of Nixon, we can see how the wage begins to develop a more partisan sheen. Democrats support it and Republicans oppose it.

With respect to the evolution of Congressional context and power politics, most future conflicts would be waged on partisan terms because the party leadership in Congress was gaining power and the parties were sorting (Poole and Rosenthal 2000). In terms of ideological cohesion, we can see from the wage vote table in the Appendix that the parties had become much more cohesive on the wage than they had been previously. Additionally, there were a series of rules changes in the Democratic Caucuses that dramatically empowered individual members of Congress and began the process of stripping committees and their Chairs of power. This in turn, would give way to individuals choosing to empower their leaders by the late 1980s in the next period.

### 4.2.4 1974 Changes

In the start of the 1970s, Congress held two sets of hearings on expanding the wage, but little movement occurred. However, following that, Congress made a serious



attempt to expand the wage in 1972, but failed. That failure was one of the last real successes of the conservative coalition. The House passed a bill in 1972 that expanded the wage and adopted a C.C. substitute amendment which cut coverage expansions, lengthened the phase in of the wage, and had a deep sub-minimum wage for teenage workers. This substitute amendment, which was adopted through a 217-191 teller vote, was much weaker than what liberals wanted. At the same time, the Senate passed a wage bill expanding the wage to \$2.20 an hour and expanded coverage to eight million new people. House C.C. members, afraid that conferees would jettison the House bill for the much more liberal Senate bill, twice blocked sending conferees to the Conference committee. All of these votes had a very strong regional split present. However, it is worth noting that while the Conservative Coalition had successfully stopped the legislation in 1972, by 1974, the powerful conservative interests were not able to exert as much influence on wage related issues as they had before. Their stoppage in 1972 proved to be a merely fleeting show of power because the legislation that was passed five months before Nixon's resignation was much stronger than the bill conservatives had stopped.

It is within that context that Congress restarted work on passing wage legislation in 1973, but the 1973 attempt ended with a Presidential veto. Congress successfully tried again in 1974, but most of the heavy lifting in terms of coalition formation and compromise was hammered out in 1973. On May 15th, 1973, the House Education and Labor Committee passed, 23-13 with two Republicans joining the 21 Democrats in voting in favor, a bill that increased the minimum wage to \$2.20 for all workers already covered by the wage, but with different phase-in periods (for instance, agricultural workers would not hit \$2.20 until 1976 while those who were included in wage protections prior to 1966 hit their phase in by 1974) and expanded coverage to all government employees and domestic servants, covering around six million new people. Notably, the committee bill contained a sub- minimum wage for students in part time jobs or on school vacation of 85 percent of the applicable wage, but rejected a sub-minimum wage predicated on

age, as Nixon wanted.

Once the legislation hit the floor, the House voted down the resurgent C.C. substitute amendment that had been adopted in 1972. As was the case with the 1960/1961 legislation, several vote switches occurred which tanked the substitute amendment. On the successful substitute attempt in 1972, 63 Southern Democrats voted for it, but only 47 in 1973 same with Republicans, who gained 17 no votes between the two attempts. An underlying motive for the switch is unclear, but Congressional Quarterly (1974) reported that the impact of the previous wage had not been felt prior to the 1972 bill, but was more fully felt prior to the 1974 bill, so a wage increase may have been more acceptable than it was in 1973. Perhaps the bigger factor was the mounting Watergate scandal. The Washington Post had been all over the Watergate break-in since it occurred in spring of 1974 and President Nixon would resign in the summer of 1974. Ultimately, with the decline of the start of the beginning of the end for southern dominance (for instance, the House had started electing Chairs in 1972 and several conservative Southerners were stripped of their committees) Southern Democrats felt more pressure than they had ever felt before.

The House then adopted the legislation 289-132 with a moderately strong regional presence in the Democratic split (CQ 1973). The Senate passed essentially the same bill they passed in 1972 with half of the Southern Democrats voting for and half voting against, with the final vote being 64-34. The only major changes were that certain industries were excluded from coverage that had not been in 1972. They were able to fairly easily vote down the administration bill which was offered as a substitute amendment which would have contained the youth differential in addition to maintaining the farmer - labor distinction that was passed when farm workers were included in 1966. The vote against that amendment was 40-57 with a regional split present.

Following House passage, the bill was sent to Conference and the stage for a veto was essentially set. The wage provisions were the same in both chambers, but the Senate bill extended coverage to more people. The bill that passed the

Conference extended coverage to domestic workers (for the first time), and almost every government worker. All told, the bill would have increased the number of workers covered by nearly seven million. Both chambers passed the conference bill with regional splits present and President Nixon vetoed the legislation. As he warned, the main reason for the veto was that the legislation did not include a wage differential for 16 and 17 year old people that allowed employers to pay them a sub-minimum wage for their first six months of employment. President Nixon favored an age based minimum wage because he felt that the overall employment of young people was being hurt as firms would not hire under-skilled kids. In his veto message, the President said, “Changes in the minimum wage law as required . . . would hurt those who need help most. The ones who would be first to lose their jobs because of a sharp increase in the minimum wage would be . . . the young, members of racial and ethnic minority groups, and women who need to support their families” The House attempted to override the veto, but fell 23 votes short.

Congress tried again in 1974, with Nixon’s resignation imminent. The 1974 attempt at expanding coverage and increasing the wage passed overwhelmingly with no regional distinction. The entire Congressional process leading up to the successful enactment of this reform was almost identical to what transpired in 1973. It testifies to the clout that a President can lose in a year. In fact, Sen. Peter Dominick (R-CO,) who authored the administration’s substitute attempt in 1973, claimed that the bill was ‘virtually identical’ to the vetoed bill ‘and the reasons for rejecting the bill last session are equally as compelling . . . for (this bill) (CQ 1974). It is worth noting that Dominick offered an amendment to strip out all coverage inclusions and just raise the wage a throwback to the status quo way of doing business in the 1940s and 1950s. It was rejected 30-65.

Ultimately, Congress passed essentially the same bill with massive margins (348-50 in the House and 80-20 in the Senate). Nixon had no choice but to sign the bill because it appeared Congress had the votes to override his veto. He claimed that the exemption of firefighters from overtime protections was a victory, despite Congress literally ignoring all of his requests (and the firefighter issue was

not even mentioned in the 1973 veto message). In Nixon's signing statement he wrote that "Although I have some reservations about portions of this legislation, its basic purpose—to increase the minimum wage for working men and women of this country—deserves the support of all Americans" (Nixon Signing Statement 1974).

### **4.3 Modern Years(1981-2016): Partisan Conflict**

In the modern era there are three increases in the minimum wage and one sustained failed attempt. The political environment is much different, with the parties polarizing and engaging in a 'procedural arms race' so they can better defeat their opponents. The wage is affected by these contextual changes. Lawmakers do not legislate around the wage in order to create better policy and political victories become a much more prominent concern (Lee 2008). This has important ramifications for strategy and coalition building. One ramification is that the wage and its provisions start to be used as a partisan tool to hurt the other party. For instance, in the late 1980s Congressional Democrats tried to embarrass President Bush on the assumption that the minimum wage was popular enough to cause him electoral problems.

The strategy that developed in this era focused on increasingly unified parties leveraging their institutional power to electorally impact the opposition. While in previous years the parties had much less uniform positions on the program, with the real dividing line being urban versus rural or southern versus northern, the two parties became increasingly sorted on the issue. That said, the rate of polarization on the wage differed across parties. The Democratic Party became unified much faster than the Republican Party, due to both a significant decline in the number of conservative Democrats and the fact that those who remained were much less conservative relative to the party median (Rohde 1991). Conversely, the Republicans had a significant contingent of members who, up until very recently, would side with Democrats on some procedural issues related to the minimum

wage. It was not only that pro-wage Republicans would vote for the wage; they would also side with Democratic demands that there should be a vote.

These coalition changes happened in tandem with strengthening of partisan Congressional institutions, vis-à-vi, the minority party. The modern era is the era of strong parties. Most negotiations occurred between constitutional actors and party leaders in the modern era, with the role of committees much diminished. Additionally, the instruments through which wage reforms occurred become much more complicated with the rise of ‘unorthodox lawmaking’ techniques (Sinclair 1999). For instance, the wage failure in 2000 is largely tangled up in a much larger bankruptcy and tax bill, as the way Congress legislated evolved. Lastly, chamber floor procedural powers are much more important too than in previous years. Extracting a winning coalition that appeals to the majority party median in the House becomes more important now than trying to overcome a bipartisan majority pushing a substitute amendment. Similarly, appealing to the 60th Senator becomes much more important (Krehbiel 1998) with the increased use of the filibuster by the minority party. Put differently, the minimum wage coalitions have changed, but so has the Congressional space those actors occupy and the types of tools available to them.

Finally, the nature of conflict changed as well. Instead of centering on parochial concerns about regional business or racial issues, the conflict becomes distinctly ideological and national in tone. While some MCs still attempt to get loopholes for specific local industries or express concerns about how a wage increase might impact their district, much of the debate focuses on national level indicators of employment and inflation and the national costs to business. One example of the nationalization/ideological nature of modern wage debate, is that most of successful wage increases in this era come at the cost of steep tax breaks for business to help off set the perceived cost of the wage to business. While legislators may view these programs as ‘good’ policy, they are also big prizes for core partisan constituencies (again, labor for the Democrats and business for the Republicans).

### 4.3.1 1989 Changes

The first attempt at enacting a minimum wage increase came in 1988 and was ended with a filibuster by Senate Republicans. Later, a wage increase was vetoed by President Bush. The relevant institutional hurdles necessary are not predicated on committee control or an opposed regional block; they are related to majority control and separation of powers.

The 1989 success also highlights the increasing power of party leaders, which would be central to the other attempts in this era. Bush outlined the conditions under which he would support a wage increase but nonetheless, he ended up vetoing the first bill. By the time Congress voted on the second bill, which overwhelmingly passed, a deal had already been reached between Chief of Staff John Sununu and AFL-CIO President Lane Kirkland. The deal allowed Majority Leader George Mitchell (D-ME) and new Speaker Tom Foley (D-WA) to quickly cobble together a bill acceptable to Bush. The leadership, empowered by members, brought a bill to both Congressional chambers, which passed easily.

However, Congressional Democrats focused on increasing the wage, which had remained at \$3.15 since 1981 (from the 1974 enactment and the steps required to increase the wage). The successful bill included a wage increase from 3.35 to 4.25 an hour and a sub-minimum training wage of \$3.35 for the first three months of an employee's tenure if they were between the age of 16-19.

Congress began moving forward on the wage increase, with signaling from then Presidential candidate Bush that he would accept a modest wage increase, but were unable to pass a bill in 1988 due to their inability to invoke cloture in the face of intense opposition among Senate Republicans. The push among House Democrats was equally fraught. Despite passing out of committee fairly easy, the CBO released a report claiming that an increased wage would result in the destruction of 500,000 jobs. Following that, the Education and Labor Committee staffers had the CBO write a second report without any information about how the wage increase impacted employment, which prompted Democratic Leadership to think twice about bringing the legislation to the floor (CQ 1989). In light of

the failure to reach 60 votes in the Senate and the shaky support in the House, Democrats pulled the plug until 1989.

Advocates tried again under the confines of what President Bush said he would accept in 1989, but faced a veto. An increase in the usage of the constitutional powers regarding the wage also helps mark the modern era. The House Education and Labor subcommittee passed, by a strict party-line vote, a wage increase to \$5.05. However, despite the relatively liberal bill passing Committee, it was not the bill that would pass the House. In the special rule adopted by the House, there would be two substitute amendment votes where the last one adopted would become the bill. The first consisted of the President's proposal, which was an increase of the wage to \$4.25 and a three month training wage. The second was a bipartisan compromise crafted by Reps. Tommy Robinson (D-AR), Tom Ridge (R-PA), and Jack Murphy (D-PA). The compromise legislation, which passed (Bush's proposal did not), raised the wage to \$4.55 and created an 85

These compromises sought to stave off a veto. When the bills were sent to the conference committee, leaders claimed that they were ready for Bush to negotiate with them. Majority Leader Mitchell said that 'We're willing to talk, we're willing to negotiate, we're willing to compromise' (CQ 1989). It was clear, however, that neither group wanted to budge much. Sen. Metzenbaum (D-OH) claimed that he 'only voted for it because (he) was trying to compromise with Bush.' The conference committee agreed on a two month training wage and the \$4.55 an hour wage increase. Both chambers passed the conference the Senate much more overwhelmingly than the House, but neither with a veto proof majority. In the House, the vote was 250-176 with Republicans opposing the legislation 23-149 and Democrats supporting it 226-27. We do see a small minor regional split in the Democrats with Southern Democrats supporting the legislation 56-24, but in most ways this was a largely partisan vote. In the Senate, the vote was less tight passing 63-38 with 36 of the nay votes coming from Republicans. Southern Democrats supported the legislation 15-2.

On June 13th, Bush vetoed the bill with the higher wage. It appeared that

there would not be another wage increase. However, the AFL-CIO claimed that they wanted any increase, “It is clear that Bush will veto anything over \$4.25. At this particular point, we’re not interested in politics. We want an increase” (CQ 1989). They therefore quickly worked out a compromise with Bush and Congressional leadership. The compromise legislation increased the wage to \$4.25 over two years and applied the training wage just to teenagers (rather than first time workers). Some liberals were unwilling to accept the more conservative expansion, including House Education and Labor chairman Augustus Hawkins (D-CA) and Sen. Kennedy (D-MA). In the end, the only real opposition came from conservatives such as Orrin Hatch (D-UT) and Phil Gramm (R-TX). The Senate and House both passed the compromise legislation overwhelmingly. This legislation passed much more decisively, with the vote in the House passing 387-37, with 35 of the negative votes coming from Republicans. In the Senate, the vote was equally overwhelming – 90-9 with all opposition coming from Republicans.

In the first instance in the modern era we saw many elements of the period start to be developed. We saw a President veto legislation who was largely backed up by his co-partisans. We also saw relatively partisan votes, especially considering votes in the early period. Finally, we saw the roots of party leaders negotiating with other party leaders on behalf of the partisan coalition. In short, we saw the start of nearly all the elements that characterize the period.

### **4.3.2 1996 Changes**

Since 1989, Democrats had lost both Houses of Congress for the first time since the 1950s so when President Clinton called for a wage increase in 1996, things looked bleak for its prospects. In contrast to the early 1950s attempts, however, the 1996 debate featured the increased use of floor tactics and partisan coalitions to advance wage legislation. The process was instigated by constant Democratic filibustering of the entire Republican agenda in the Senate. The success of this strategy highlights the asymmetrical nature of the increased polarization on the



wage. Had the Republicans been as unified on the wage as Democrats, they would have been able to use their significant majority powers to block an expansion. However, 25 House Republicans signaled that they would break with the leadership on both the wage and procedural votes related to the wage. Meanwhile Senate Republicans were getting restless as Democrats were drawing attention to Republican inability to govern.

Despite Gingrich's centrality in legislative affairs, nearly all of the action came in the Senate. Senators Ted Kennedy (D-MA), Tom Daschle (D-SD), John Kerry (D-MA), and Paul Wellstone (D-MN) were determined to offer minimum wage increases to every piece of important legislation and did. For three months Senate Democrats essentially shut down the Senate floor. This especially annoyed Majority Leader Dole because he was trying to highlight his leadership skills and felt that his inability to effectively run the Senate was hindering his Presidential run ([Almanac 1996](#)).

While the Senate was shut down, pressure on House Republican leadership came from northeast Republicans. On April 17th, when the constant Democratic filibusters were still ongoing, 20 Republicans introduced a bill raising the wage from \$4.25 to \$5.25.<sup>20</sup> Of the wage supporting Republicans, all but two were from northern states and they were much more moderate than the typical Republican. The average first dimension NOMINATE score for the Republican cosponsors was .283 compared to an average of .495 of the non cosponsors. In effect, the moderate Republicans were being pressured by Senate liberals. The next week, Speaker Gingrich and Majority Leader Dick Armey (R-TX) asserted that there

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<sup>20</sup>The full list of Republican cosponsors were, Rep. English, Phil (R-PA-21), Rep. Shays, Christopher (R-CT-4), Rep. Gilman, Benjamin A. (R-NY-20), Rep. Walsh, James T. (R-NY-25), Rep. Horn, Stephen (R-CA-38), Rep. Houghton, Amo (R-NY-31), Rep. Boehlert, Sherwood (R-NY-23), Rep. Torkildsen, Peter G. (R-MA-6), Rep. Johnson, Nancy L. (R-CT-6), Rep. Leach, James A. (R-IA-1), Rep. Martini, William J. (R-NJ-8), Rep. Lazio, Rick (R-NY-2), Rep. Franks, Bob (R-NJ-7), Rep. Forbes, Michael P. (R-NY-1), Rep. Diaz-Balart, Lincoln (R-FL-21), Rep. Riggs, Frank (R-CA-1), Rep. Cremeans, Frank A. (R-OH-6), Rep. LaTourette, Steven C. (R-OH-19), Rep. Blute, Peter I. (R-MA-3), Rep. Ros-Lehtinen, Ileana (R-FL-18), Rep. Metcalf, Jack (R-WA-2), Rep. Bachus, Spencer (R-AL-6), Rep. Smith, and Christopher H. (R-NJ-4).

would be no votes on any wage increase proposals. The leadership alternative was a series of tax credits targeted towards low income people such as a child tax credit or modest expansions to the EITC (coupled with things like tort reform). By May 1st, at a closed door meeting of House Republicans, attendees claimed that over 70 Republicans supported a wage increase ([Almanac 1996](#), pg. 7).

Finally, Republican leadership relented and worked out a piece of stand alone legislation. The Ways and Means Committee in the House passed a tax bill which would be the vehicle for the wage increase on the floor. The special rule stipulated that Rep. Riggs (D-CA) could offer a wage amendment raising the wage to \$5.15 along with Rep. Bill Goodling (R-PA)'s amendment for the other wage related issues. Both amendments passed easily and the floor vote was successful. Senate passage was also easy, with Majority Leader Lott, who replaced the resigned Dole so he could concentrate fully on the Presidential campaign, claiming that his philosophy of increasing party unity by 'allowing them to stray' ([Almanac 1996](#), pg. 10). The legislation quickly passed the Conference Committee and the conference report overwhelmingly passed Congress again. Ultimately, the bill that passed increased the wage to \$5.15 over the course of a year and included the sub-minimum training wage from the 1989 success (which had expired in 1993) in addition to changing the way tips were calculated and overtime for computer workers were handled.

### **4.3.3 2000 Attempt**

President Clinton tried to get another wage expansion in 1999 and 2000, but Congress and the President were unable to work out a deal that raised the wage, in part because the bill got tangled up deeply with a bankruptcy bill and also tax cuts. The general outline of Clinton's plan would have raised the wage from \$5.15 an hour to \$6.15 an hour and included some number of tax cuts. The original amount was \$11.5 billion dollars over five years, but by the end of the attempt, the number was up to \$103 billion over ten years. The inclusion of the tax breaks

ultimately doomed the bill, and the wage increase, as the threat a Presidential veto stalled action.

The legislation was an amalgamation of three bills that had committee markups, but the President and Congressional leaders designed the policy outline independent of the legislative process. This is a relatively new development that indicates how the bases of power have changed. When President Nixon sought changes for the wage bill he vetoed in 1973, he sent a letter to the relevant House committee chair. Two decades later, most of the public posturing was between President Clinton, Speaker Dennis Hastert (R-IL), Senate Majority Leader Trent Lott (R-MS), and Senate Minority Leader Tom Daschle (D-SD). Additionally, while most previous attempts at expanding the wage or coverage came as largely self contained vehicles, this attempt followed the strategy developed in 1996 of trying to attach a wage increase to different bills. In this case, the broader bill was a priority bankruptcy bill that the wage increase was initially attached to on the Senate floor (not in committee).

Moreover, the entire endeavor was designed by party leadership in order to appeal to their respective party median. There were certain electorally vulnerable Republicans that wanted to be able to vote for a wage increase, while certain Blue Dog Democrats wanted to be able to vote for a tax cut. To that end, leaders tried to strike a balance between the wage increase and tax cuts that would do the least amount of damage to their partisans. While these deviations (pro-wage Republicans, for instance) from the emerging party norm continued to exist in 2000, the parties are still well on their way to more fully polarizing. In fact, many liberal and mainstream Democrats opposed the wage increase because it was too small given the amount of tax cuts they needed to give up to get it an argument that prompted President Clinton to threaten a veto.

To summarize, the entire incident is representative of the new way of doing business. Leadership, which is doing most of the work in terms of agenda setting and policy development, is focused on using the policy to protect their coalition's electoral interests. Moreover, most of the work is done prior to introduction

and the Congressional process primarily involves floor amendments or procedural tactics afforded to the majority of the chamber floor. Ultimately, the 2000 attempt at increasing the wage was never an attempt at trying to move the wage in a sustainable direction.

The effort started in 1999 as the House Ways and Means Committee held hearings on and passed a bipartisan bill which included \$30 billion dollars in tax breaks over five years coupled with a dollar increase in the minimum wage. The appetite for such a wage increase was not there in the House, but there was an agreement among Leaders Lott and Daschle that they would allow amendments to a large bankruptcy bill by both parties. In fact, there were 321 amendments offered to the Senate version of the bill! One amendment, offered by Sen. Kennedy (D-MA), was a pure wage increase of a dollar over two years that was voted down on a largely party line vote. The Senate adopted amendment offered by Sen. Pete Domenici (R-NM) that coupled a dollar raise over three years with an \$18.4 billion dollar set of tax cuts. This vote was close 54 to 44 -, and it was mostly Democrats who voted against the legislation. Kennedy, Wellstone, and Kerry all voted no for instance advocates of the shut down the Senate strategy in 1996 (Roll Call Vote 357). Negotiations then began between House and Senate leadership. Since the Senate amendment process took place in mid November and with adjournment slated for November 22nd, most MC believed the process would be restarted the following year.

In 2000, the House passed a self-executing rule. Upon acceptance of a dollar wage increase over two years (which passed 282-144 with no real regional split, but a deep split among Republicans), the increase would be automatically added to a \$122.7 billion dollar tax break bill that the House had passed earlier.<sup>21</sup> The bill passed the House, while the Senate had passed a bill raising the wage a dollar over three years combined with \$103 billion in tax breaks as part of the bankruptcy

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<sup>21</sup>The tax conflict was part of a larger attempt by Congressional Republicans to embarrass the President. President Clinton had vetoed a \$792 billion dollar tax bill in 1999 (HR 2488) which Republicans were trying to get enacted by tying it to a Democratic priority.

bill. Procedurally, it was a mess, but it seemed as though Congressional Republicans and the President could work something out. They could not. During the Conference Committee meeting, 12 tax related and spending bills were combined with the minimum wage increase and the overall tax break number came to \$240 billion over ten years. The House passed the conference report, but in light of President Clinton's veto threat, the Senate held off. While the bill technically died in the Senate, it is really under the threat of veto where the bill died.

#### **4.3.4 2007 Changes**

The first set of reforms to the minimum wage since 1996 occurred when Congressional Democrats, who were swept to power in both chambers of Congress during the 2006 midterm elections, successfully attached a \$2.10 wage increase over two years, raising the wage from \$5.15 to \$7.25 an hour, to the war supplemental funding proposal that President Bush claimed was an absolute necessity. The 2007 success shows how partisan strategies for wage increases unfold. President Bush did not favor a wage increase, but by tying it to his main priority, Democrats were able to get it passed.

Leading up to the 2007 attempts, Sen. Ted Kennedy (D-MA) attempted to attach a wage increase to the 2004 welfare reauthorization bill. When Republican leaders failed to invoke cloture, they pulled the underlying bill rather than allow a vote on the stand alone wage. Republican leadership was evidently straining to contain wage proposals. The wage as an issue remained on the Democrats' agenda.

Following the midterm elections, Democrats attempted to pass a stand alone minimum wage increase as part of their 'first hundred day' strategy. The bill that passed the House included \$1.3 billion in tax breaks to win votes in the Senate, which was only marginally Democratic. Coming to the House floor under a closed rule which totally barred Republican amendments, the legislation passed 315-116. Senate Democrats passed a bill including a much higher \$8.3 billion

dollar tax break package as part of their wage increase legislation. They held the bill at the Senate desk in lieu of sending it to Conference so leadership could continue negotiating the differences between the legislation without having to make disagreements public.

In an apparent shift, Speaker Pelosi stopped focusing on getting a stand alone wage increase passed and started focusing on finding priority legislation to attach a wage increase to. She settled on the War Supplemental Appropriations bill, in part to get liberal Democrats to vote for the legislation (CQ 2007). The bill passed Congress with a purely minimum winning coalition (218-213) including the \$1.3 billion small business tax legislation they had passed earlier, but it also included a withdrawal deadline for American soldiers in Iraq. The Senate passed their supplemental on a similarly tight margin (51-48), with \$12.6 billion in tax breaks. In conference, they split the difference on the tax issue, settling on \$4.8 billion. Both chambers passed their conference reports, with basically party line votes. In the Senate, the vote was 51-47 with two Republicans supporting the legislation and only one Democrat opposing. The vote was similar in the House as well, 218-209 with only two Republicans voting for the legislation and seven Democrats opposing it. Consequently, President Bush immediately vetoed the legislation. Congress settled on passing a version of the supplemental appropriations bill that was essentially the same as the one they had passed previously, but without the withdrawal time-line attached. President Bush signed that one and the wage was set to increase by \$2.10 over two years. This has been the last successful federal wage increase thus far.

## 4.4 Conclusion & Lessons

The chapter has argued that the evolution of the federal minimum wage has been strongly impacted by the Congressional context of the day, especially who is empowered in the Congressional organization and the size and cohesion of relevant

groups. In the early years, I suggested that a small, but bipartisan and organizationally entrenched group was able to ensure that any changes to the wage came without coverage expansions. In the second section, I suggested how temporarily large increases in coalition size and unity can overcome even the most entrenched veto points if the group of actors occupying those veto points are not cohesive or large enough. In the third section, I suggested that the minimum wage becomes the battlefield for full blown ideological and partisan warfare and expansions of the wage universally come with the intent of harming the opposition.

In thinking more broadly about the development of the federal minimum wage, I have suggested that changes in the way Congress is organized, coalition composition and cohesion, and program salience, affected the politics of the program and the provisions contained within. Further, the development has an implication for program design and also there are interesting comparisons between the development of the EITC and the wage.

Program advocates seem to be able to overcome program design in terms of coverage provisions despite there not being obviously powerful and supportive exogenous pressures to eventually extend wage coverage to most workers. In all of the successful reform events depicted here, Congressional actors are doing the brunt of the work to get wages increased and coverage expanded. While the program lacks the constituent support of Social Security or other programs, wage advocates in Congress have done much better than some may have expected without those exogenous feedbacks. This suggests that while perhaps not ideal, programs that are designed without outside feedback may continue to trudge along.

In terms of comparisons to the EITC, perhaps one of the biggest is the idea of a median voter centric vote coalition becoming more important. Hacker and Pierson (2014) write that one of the main points of the Downsian framework is that political outcomes are strongly dictated by median voter style theories. This has been the case for the EITC and increasingly became the case for the minimum wage. Especially in later years, some of the minimum wage expansions became

increasingly minimum winning coalitions. In other words, policy expansions were designed to appeal to the median voter. A second comparison is the program became much more tightly linked to electoral outcomes – another key component of Downsian theories. Early on, much of the program was dictated by Southerners who faced no electoral threat, but later on in the program, Republicans in vulnerable districts were often pressured to vote for wage increases lest they lose reelection. In these ways, the program developed some convergence with the EITC.



## Chapter 5

# Institutional Evolution, Policy Protectors, and Congress: The Expansion of the Earned Income Tax Credit

Following the creation of the Earned Income Tax Credit (EITC), it trudged along without drawing much notice, getting reauthorized, eventually made permanent, indexed to inflation, and massively expanded under President Clinton. When Aid to Families with Dependent Children (AFDC) was abolished and replaced with Temporary Assistance to Needy Families, the EITC cost the federal government twice as much as the cost of AFDC. Yet, attempts at cutting the program were not nearly as fervent or intensive as the proposals to cut AFDC. In this chapter, I ask how did a program that was created in a unique legislative context by a relatively small and limited supporting coalition not only survive but thrive in subsequent years.

Congressional centralization affected both the organizational effects on the EITC and also the coalition impact. As the balance of power shifted from committee chairs to party backbenchers and chamber leadership, direct control over

the program's destiny by program advocates declined as well. Early growth of the EITC was due to both actual control over the levers of government and also control over the messaging facilitated by controlling the process. Removing power from the committees resulted in a reduction of power of the advocacy coalition to protect and expand the EITC and to control the amount of conflict a policy endured. It also resulted in a loss of control over messaging as the power to attach EITC reforms to legislative vehicles and have success in advancing those proposals. One implication of the reduction in messaging control is MCs may think about the EITC differently if it is attached to non-tax legislation. Ultimately, the centralization of power in leadership makes the EITC subject to a different group of people in the Congressional party.

More specific to coalitions, early advocates of the EITC might be seen as outliers relative to the two parties, this trait declined as power diffused and party conflict became more central to the advancement of the program. To that end, the size of coalitions increased significantly, as did the scope of coalition conflict. When one party becomes disproportionately hostile towards the credit (which begins to happen to the Republican Party in the late 1970s as very conservative members are elected) the program becomes more vulnerable to retrenchment under a regime that empowers the parties.

Descriptively, I suggest the way this distribution of power evolves over time shapes the way policies develop too. The impact of localized control and a tight knit coalition early on in the program's life allowed for continual, but modest expansions in the program. Accordingly, we saw the program reauthorized and program generosity gradually increased. As decision making expanded, the number of times the program was expanded grew more scarce, but the size of the expansion became much larger. This is when we see the program indexed and generosity massively expanded relative to earlier expansions.

More broadly, I suggest that the program developed these traits, became more similar to the minimum wage, and more associated with the organized combat view of politics, while remaining rooted in a Downsian framework. The coalitions

involved in EITC politics became more partisan over time. That is, while the pro EITC coalition was bipartisan and committee based, the advocacy coalition became more Democratic, while the opposition became more Republican. This is not to say that it is purely partisan, even today, but several powerful elements of the Republican Party have begun using the language of welfare to describe the EITC. This development follows the minimum wage growth, as opposition and advocacy became much more partisan over time.

Related to the developments concerning partisanship, the EITC's more relevant actors moved from the committee to the floor. Recall that much of the significant power behind the enactment of the EITC came from the Senate Finance Committee. As the balance of power shifted from committee chairs to party backbenchers and chamber leadership (as explained in [Rohde 1991](#)), direct control over the program's destiny by program advocates declined as well. In a very real way, early progress of the EITC was due to both actual control over the levers of government and also control over the messaging facilitated by controlling the process. Removing power from the committees resulted in a reduction of power over the advocacy coalition to protect and expand the EITC. It also resulted in a reduction in control over messaging since the power to attach EITC to different legislative vehicles can change the way MCs think about the program if it is attached to non-tax legislation. Ultimately, the centralization of power in leadership makes the EITC subject to a different group of people in the Congressional party. In this way, the EITC became more like the minimum wage over time as opponents to the wage lost power and the relevant members moved towards chamber and party medians.

Finally, the program developed more conflict and salience. After the initial development period of the program, more and more political actors began to realize it was a program that was getting more expensive and more relevant to wage support policy. The program was exempted from automatic budget cuts in the 1980s, was expanded against significant Republican opposition in the early 90s, and began being affected by 'welfare' language after that. These events raised the

salience and conflict associated with the program, eroding some of the low salience protections that helped the program early on. In this way, the less salient wage support program became more like the more salient wage floor program over time.

## 5.1 Early Maintenance and Expansions

### 5.1.1 Temporary Re-authorizations

For the early part of the EIC's life, it was reauthorized yearly. [Adler and Wilkerson \(2012\)](#) point out that an important reason for pursuing temporary authorizations is based on 'agenda scarcity constraints' and this is very much a definite legislative strategy pursued by the Finance Committee which followed a consensus oriented approach towards advancing policy. The first such re-authorization came in the Revenue Adjustment Act of 1975, which was a piece of legislation asked for by President Ford to extend the tax programs authorized in the Tax Reduction Act of 1975 for another year. The general politics of this were not overly controversial. The EIC renewal was not included in the House version, but was included in the Senate and conference version. It does not appear that the House was opposed to the EIC renewal, just that they did not take the initiative to pass it themselves. This highlights the way that non-permanent policies can be kept alive if the original coalition leader is vigilant about ensuring a durable policy and considering that the committee (and therefore coalition) was strongly in favor of tax expenditures and 'encouraging work' there was no reason to allow the credit to lapse. In a different situation, however, it could show how easily a temporary program could fade away if the advocates stopped advocating for whatever reason.

The second temporary renewal of the EIC, The Tax Reform Act of 1976, was extremely controversial and pitted those in favor of extensive tax expenditures against 'reformers' who correctly noted that most tax expenditures went towards business interests. This legislation had been first introduced in 1973 as a piece of legislation designed to curb the growth of tax expenditures, but the Senate

Finance Committee was all too willing to let the legislation languish year after year as they were supportive of tax expenditures and they saw no reason for ‘reform. This was a piece of legislation designed to cut taxes in both chambers, however, Senate liberals attempted to use it as a vehicle to disrupt the emerging status quo on tax expenditures by repealing billions of dollars of tax expenditures for businesses. Sen. Kennedy (D-MA) speaking out against expenditures and the Senate Finance Committee generally said, “The Finance Committee’s tax bill has now become both a travesty of tax reform and a serious repudiation of the congressional budget process,” (Conte 1977).<sup>1</sup>

While this is a definite conflict over tax expenditures, the reformers took aim at expenditures for tax shelters, people with foreign income, and oil interests – not the EIC. In fact, one of the leading reformers, Walter Mondale (D-MN), was a vocal advocate for the EIC and had pushed for the Work Bonus Plan very early on as well (120 Cong. Rec. 6347, 6448 (1974)). In total the attempts to limit expenditures were focused on reducing benefits for business and there was no effort to go after the EIC. Additionally, the Senate bill contained a re-authorization of the EIC and attempted to make it permanent and while the permanent aspect of it was not adopted, another yearly re-authorization was accepted. On the question of tax expenditures in particular, the Conference committee pulled a lot of the expenditure expansions from the bill because of fears concerning House passage. On the question of the EIC, there was never any attempt to remove it and it received no negative attention in any of the committee documents surrounding the legislative vehicle.

The last temporary re-authorization of the EITC came in a proposal from President Carter to deal with an economic downturn. President Carter called for, among other things, a one-time refundable tax refund of \$50. The bill passed through the House relatively easily and quickly, but Senators made it clear that

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<sup>1</sup>There was a smaller bit of conflict between the Senate Finance Committee and the Senate Budget Committee because the Budget committee was starting to take notice to how much potential revenue was lost to the tax expenditures. Committee jurisdictional issues are not really a driving element in the development of the EITC.

they did not think that the \$50 rebate would survive the Senate. In particular, the rebate was extremely unpopular in the Senate Finance Committee (Shapiro 2012). Along the way, the Senate version of the bill adopted an expanded and reauthorized EIC. Eventually the Carter rebate bill was passed out of the Finance committee on a party line vote – they were willing to take one for the team, but it was clear they were unhappy about it. As such and based on the advice from Senate Finance Committee Democrats, Carter eventually dropped the \$50 rebate (Shapiro 2012). This breathed much needed light into the proposal and the Senate stripped the rebate on the floor and went on to pass the rest of the package including the EITC expansion and re-authorization, 73-7. Once again the EIC was reauthorized for another year and while there was controversy, it was not around the EIC. In fact, there was a proposal offered by Senator Kennedy to “persons receiving public assistance to qualify for the full Earned Income Credit despite federal, state, or local program benefits to their children.” The vote against this proposal was 35-56 against, suggesting that priming ‘welfare’ interests is not a successful way to advance the EIC and in fact, attaching the EIC to welfare interests as opposed to tax interests might be to the long term detriment of the program.

All three reauthorizations came in a legislative vehicle dealing with taxation and often times where the conflict was over nothing relating to the Earned Income Credit. This is in stark contrast to the failed attempt to institute a guaranteed minimum income with the Family Assistance Plan. While the programs are not exactly the same, one program was used as a wholesale welfare reform proposal while the other was a tax expenditure designed to encourage work. The strategy for building a cohesive coalition within a key committee based around a policy tool that had wide support combined with the fact that committees still held much of the sway during this period proved to be an unbreakable combination.

### 5.1.2 Major Policy Reform Returns: Carter, the EITC, and the PBJI

Even though the driving coalition up until this point has been largely contained in the Senate Finance Committee and by its members in other forums, President Carter included the EIC as a major component of his welfare reform proposal, The Program for Better Jobs and Income (PBJI). This was a comprehensive welfare overhaul on par with the failed Family Assistance Plan. On the campaign trail, Carter called for a “complete overhaul of our welfare system” and the Carter Health, Education and Welfare Secretary, Joseph Califano said he had heard a lot of people calling for welfare reform as well (Patterson 1998, pg. 117).

The PBJI sought to create a two track welfare system to provide relief for the ‘employable poor’ and the ‘unemployable poor. For those ‘unable to work,’ the PBJI would combine AFDC, SSI and Food Stamps into one for those ‘truly unemployable.’ In the original proposal, those programs would also receive slight expansions. For those who were “unemployable but able bodied” (with an exception for mothers with young children), they would receive job training and offered a public job which they would need to accept or they would lose benefits. Carter’s plan created 1.4 million public jobs to facilitate this part of the program. The Carter administration also envisioned this would make it easier for these people to eventually transition to private sector jobs. The second broad part of the program was for the “needy and lower middle class” and was to dramatically expand the EIC with the goal of expanding help for the working poor. For those who were low income but were able to secure private sector employment, they would be aided with the “wage subsidy” in the EIC.

While relations between what should have been a receptive Congress, based on partisan composition, and the President were frayed, Carter’s legislative strategy accounted for this and it was politically savvy (Frisch and Kelly 2008, Shapiro 2012).<sup>2</sup> For instance, Carter’s staff deliberately tried to frame the legislative as a

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<sup>2</sup>Carter famously pushed himself on Congress without sufficient deference. For instance, he

tax package and also tried to incorporate Long's objections to the FAP ahead of time (Ventry 2000). In other words, he was trying to minimize legislative conflict. That said, these are idiosyncratic curiosities which may have contributed to the feeling that the program was going to succeed, but in reality it was never even brought up for a floor vote in either chamber. In fact, by examining the way that the Congress structured the conflict over the PBJI institutionally and how different interests were combined, we can see that this attempted legislation was going to have a difficult time passing.

Due to the sweeping nature of this program, Speaker of the House Tip O'Neill enlarged the Public Assistance and Unemployment Compensation subcommittee on Ways and Means to consider the proposal. That is, he added the Chair and six members of the Agriculture Committee and the Education & Labor committee. This boosted the number of MCs on this committee to thirty. Speaker O'Neill also stipulated that the bill that this enlarged subcommittee passed needed also be passed by the full Ways and Means, Education & Labor, and Agriculture committees with any significant dissent sending the proposal back to this subcommittee.

The PBJI, introduced in the first session of the 79th Congress as President Carter's major domestic initiative, received some hearings in the House and went equally nowhere in the Senate. Senator Moynihan (D-NY) said the "climate wasn't right for such a bill while Long commented that it was worth pilot testing (Califano 2007, pg. 358). The bill was taken up again under the same institutional arrangements in the second session and despite lobbying from Governors and state legislatures, Ways and Means Chair Ulman (D-OR) said that the PBJI was dead and then he introduced his own proposal. The Ulman proposal cut the public service jobs, and extended the cash assistance programs already existing. This set off a slew of bill introductions that were all rejected by the enlarged committee who eventually passed Carter's proposal. None of the relevant standing committees brought up the proposal with the Chairs of Agriculture and Ways & Means, Rep.

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vetoed a waters project pork bill and did not take into consideration Senate advice for cabinet positions. Some influential Senators, such as Henry Jackson (D-WA) wrote him off completely (Shapiro 2012).



Foley (D-WA) and Ulman (D-OR) respectively, publicly stating they would not support the legislation.

After being publicly defeated, Carter signaled that he would take a more incremental view, but the Speaker signaled that it was too late in the session. There were attempts to keep the effort alive in the Senate as well, but they all fizzled out. As a final punctuation point to failure of Carter's PBJI, he had The Social Reform Amendments of 1979 introduced into the next Congress. Much of the program was the same, just scaled back. That is, the program no longer reorganized major cash assistance programs into one, many fewer public jobs being offered, and lower increases to the EIC with more work requirements. The program barely passed the House with three Democrats voting against it in committee, the rule was approved by a 202-181 margin, and the motion to recommit a 200-205 rejection. It was eventually passed by a 222-184 vote. The bill was never brought up for any hearings in the Senate and that was the end of it.

### **What Happened?**

The defeat was, in part, caused by a decentralized Senate and an especially decentralized House. By increasing the number of committees that the legislation needed to pass through in the House, especially with the stipulation that any major changes by the standing committees would send the legislation back to the enlarged sub-committee, Speaker O'Neill erected too many barriers to success. When taken in conjunction with the still dominant and unified Senate Finance Committee, the broad institutional barriers to advancing Carter's welfare plan were immense.

Despite the Administration's attempt to play up tax provisions and play down welfare provisions, this was a welfare bill that made extensive changes to cash assistance programs. This also highlights the difficulty of major policy reform on welfare issues in general due to the very well developed and crystallized interests and attitudes held by those in key Congressional veto points with Carter's Welfare Secretary calling it the "middle east of domestic politics," (Lynn and Whitman

1981, pg. 231). Opposition came from those not wishing to expand cash assistance and from MCs not wishing to lose any potential jurisdiction over a program, but not those against the EIC. This is another example of how, when paired with welfare reform programs, expansions of the EIC are difficult, but when paired with other tax expenditures they are relatively easy.

By understanding the salience of those welfare attitudes in conjunction with the distribution of those attitudes along the institutional structure we can see how the program failed. Unlike the Family Assistance Plan, which was largely stalled by one committee with immensely concentrated opposition, the PBJI was stalled by several committees with the opposition spread more diffusely among several potential veto points. This is an important change from before. As the House and Congress more generally starts to empower sub-committees and ensures that more junior members get their say (which had not yet fully taken off during the FAP debates but was well under way during the 95th Congress) the number of opportunities for legislative stoppage increases especially under diffuse opposition. This is especially true during the transition period immediately after the Democratic Caucus starts instituting reforms, but not yet before the central leadership is largely empowered (Rohde 1974, Sinclair 1995).

### **5.1.3 The Revenue Act of 1978: The Program is Made Permanent**

After the PBJI had failed, but before the second attempt at passage in the Social Reform Amendments of 1979, Carter had a tax cut bill introduced that would cut taxes for individuals, mostly skewed towards low income people, by \$23.5 billion while also making “reforms” that would raise \$8.4 billion, mostly at the expense of middle class and upper income people. The proposal also cut business taxes by \$8.4 billion while making reforms to raise \$1.1 billion. The EITC, which needed a renewal, was not in the original proposal. Yet, when the dust settled, the Earned Income Credit was made permanent and expanded fairly

significantly.

To pay for the tax cuts, Carter proposed cutting certain expenditures for businesses and individuals such as the ability to deduct property taxes from federal returns, the ability to itemize deductions, and by raising capital gains taxes. This was a tax bill which sought to break the control of those favoring expenditures on the tax policy making process. In fact, even though this process was a victory for the tax expenditure coalition, it was a bloody one and major institutional changes were starting to really take hold that discouraged the bipartisan grasp these members held in Congress.

As usual, the tax expenditure coalition in the Senate Finance Committee was the main driver in expanding the EITC and also as usual, they paired those policy changes with bigger cuts towards businesses and capital gains. That said, the House was part of the group that rewrote the bill to favor business and middle income people, but they had never taken the lead with expanding the Earned Income Credit. Ways and Means Chairman Ulman and before him, Mills, had different priorities from Long and other EITC supporters in the Senate.

As hinted above earlier, conflict between liberal reformers favoring drastic reductions in tax expenditures and more moderate members favoring those expenditures was very present in both the House and Senate during all parts of this legislation. For instance, in Ways and Means, Chairman Ulman took the lead in skewing the legislation back towards business and higher income people which is what moderate Democrats and Republicans favored. This infuriated some liberals who threatened to rally the Democratic caucus to kill the bill on the floor. Likewise, there was a protracted floor fight in the Senate where Sen. Glenn (D-OH) attempted to make tax expenditures sunset every ten years which set up a very bitter fight between Glenn, Kennedy (D-MA) and others against the vanguard of the tax expenditure coalition in Long and others. Majority Leader Byrd (D-WV) invoked cloture, which passed 62-28, and had all non-germane amendments – including the Glenn amendment – killed.

Eventually the final bill was passed 72-3 in the Senate and 337-38 in the House.

It had gutted, for the most part, Carter's low income tax cuts and also his attempts to remove some of the more expensive tax expenditures. Despite the conflict over tax expenditures in the House and the Senate, the EITC was made permanent and expanded. Further, of all the amendments offered in committee and on the floor from either chamber, no one objected to the EIC being added to the House bill or the EIC being made permanent in Senate Finance. The Conference committee even expanded a program increase above what had passed out of the standing committees.

Even though the conflict over this legislation was protracted and public, those supporting the status quo on tax expenditures, which is the main driver of the EITC during this period, continued to occupy the important Chairmanships, which still dominated the legislative process. As we know from [Sinclair \(1983\)](#), [Rohde \(1991\)](#) and others, however, the days are numbered for the committee barons and that those in favor of advancing the EITC will need to adjust to new institutional changes and construct a working coalition accounting for that fact.

## 5.2 The Middle Years: Consolidation and Expansion

The time between the passage of the 1978 Revenue Act and the next major piece of legislation involving the EITC in 1984 involves a split between the early politics of creation and the subsequent politics of consolidation. As Congress moved away from a committee centric mode of organization to a caucus and leadership centric mode of organization, the EITC became less the special program protected by a few select people and more subject to the views of the caucus overall and leadership. The way the institution structured the EITC coalition also changed with less direct power placed with program advocates.

Additionally, as the legislative grasp of the coalition in bolstering the EITC loosened with the fading of the committee system, so too did their grasp on how

the program was viewed. Whenever the EITC was successfully reauthorized or expanded in the 1970s, the language was always about how the EITC incentives work and acts as a subsidy for labor. It was also occasionally construed as a program which explicitly reduces welfare expenditures. While the reduction in control in the relationship between interests and the EITC is not immediately consequential, the reduction in direct control sets the stage for conservative attempts to tie the program to welfare later in the program's trajectory.

The cohesive nature of the coalition agitating for the EITC and the powerful position it occupied set the program for legislative expansion. Previous work has shown that when major legislation is passed, it requires the party that passed it to retain office in order to make the program stick (Gailmard and Jenkins 2012). In this case, even though the program was not major legislation, the ideologically homogeneous, but bipartisan coalition, increased the likelihood it would survive regime changes. As we will see, it was indexed to inflation at the same time President Reagan was actively trying to eliminate tax expenditures and reduce overall rates. In fact, the program only becomes vulnerable when it gets expanded with a partisan coalition.

Taken in conjunction with the changing nature of the EITC coalition and the reduction in control over the program by that coalition, the program would expand and be protected during the early and mid 1980s. As the aforementioned changes kept evolving, however, the variability of programmatic survival increases in the end. The consolidation period of the Earned Income Credit sees it protected from automatic spending cuts in the first sequestration, subtle increases, followed by indexation to inflation.

### **5.2.1 The Deficit Reduction Act of 1984**

One of the key factors in the earlier years of the EIC was that it was largely advanced as a tax program and a wage subsidy *not* welfare. Against the backdrop of an increasingly ideologically oriented and hostile legislature, an Earned Income

Credit expansion of \$525 per person was included as an explicit “sweetener” to gain Democratic support for large Reagan supported tax cuts he wished for with the Deficit Reduction Act of 1984 (Fessler 1984). It was eventually expanded to \$550 in conference, and the broader tax bill – which again was not controversial for the EITC – passed the House 318-97 and the Senate 74-23.

This advancement of the Deficit Reduction Act of 1984 is consistent with the EITC being successfully increased alongside tax legislation, but it also highlights a major coalition change. We see the program being used as a chip among partisan actors with reduced commitment or involvement from the individuals who originally supported the program. Part of this is likely due to Republican control of the Senate, but a larger part is due to the weakening of committee powers. As noted earlier, distinguishing between the Senate Finance Committee and the coalition supporting the EITC was near impossible in 1975. Now, as the Finance Committee loses its iron grasp on tax legislation to the caucus, entrenched supporters on the committee (who are beginning to retire or die alongside this) have less direct control over the fate of the program. The usage of EITC expansions as political leverage reflects a change in its legislative protection. This change is very beneficial in the short term, but will make the program more vulnerable in the long run.

### **5.2.2 The Balanced Budget and Emergency Deficit Control Act of 1985**

The importance of the EITC to its advocates is on display during the debates over the Balanced Budget and Emergency Deficit Control Act of 1985. While an interesting turn of events, it shows more so the change in program salience and importance than popularity. Sen. Gramm (R-TX), the lead sponsor for the sequestration, was amenable to increasing the programs which were exempted from the automatic cuts. In other words, ensuring the cuts hit as many programs as possible was less important than turning the legislation into law. After all, the

dollar amount that would be cut was the same regardless of how many programs were actually cut or not. To Gramm, that just meant that the programs that were to be cut would be cut more deeply – presumably okay with him. So, getting the EITC into the exempted programs category does not seem to have taken much political capital. We cannot know who would have won had there been a fight for the inclusion. That said, all of these programs were included at the request by Senate Democrats in order to gain their support (especially the inclusion of Social Security).

Instead, there are two alternative lessons to draw. First, the program was included with the most salient and extensive social welfare programs and it was the only tax program included. While there was no fight, this shows that the Democrats in Congress are the ones who were ultimately willing to go to bat for the program – not the bipartisan tax expenditure committee of old. This suggests that even though the program was saved, in the moment we witness a significant change in the supporting coalition. If the Republicans are merely unopposed to exempting the program then that is a major decline in support from before. The second lesson, in tandem with Democratic leadership on the exemptions, is that the only other exemptions were ‘traditional’ welfare programs. The willingness among EITC supporters to allow the program to so easily be lumped in with cash assistance is another major departure from how the program was advanced previously.

### **5.2.3 The Tax Reform Act of 1986**

The final act for the EITC in the 1980s, and the last in what I am calling the consolidation period, saw the program indexed to inflation and the maximum benefit increased along with the further disintegration of the original supporting coalition. As one of President Reagan's signature achievements as President, The Tax Reform Act of 1986 sought to cut tax rates and ‘simplify the tax code code for removing tax expenditures. Included in this “major reform was a benefit

expansion in the EITC and also linking it to inflation. These are major and tangible changes to the Earned Income Tax Credit. As we will see, though, and as is the case with other EITC legislation during this period, the reduction in entrenched interests advocating for a program leaves the program subject to the whims of party leaders which encourages partisan conflict and makes the program more susceptible to retrenchment when parties become more ideological or party regimes switch.

This piece of tax legislation was, until the 1993 budget, the most controversial piece of legislation where the Earned Income Credit was successfully expanded. Ways and Means Chairman Rostenkowski tried to patch together a successful winning coalition, but Democratic support was weak and Republican opposition strong because Republicans did not think Reagan was getting as much as he wanted and they were not supportive of the reduction in business based tax expenditures ([Stewart 1991](#)). Though the fight proved difficult, it passed the house where it faced staunch opposition with Senators starting to make amendments removing the proposed expenditure cuts. The Earned Income Credit was, once again, not proposed for cuts. Eventually, (now) Finance Committee Chairman Packwood and his staff came up with a plan to eliminate most federal deductions and those supporting reform, upending the traditional pro-expenditure balance of power and ultimately developing the framework for the resulting successful bill.

What can we learn from this legislation? Even though some of the deduction eliminations were scaled back, many of the eliminations originated in the Senate Finance Committee on behalf of a President who sought to remove deductions and expenditures. True, the EITC had just benefited tremendously from the piece of legislation passing, but the way it was passed is another sign post indicating its decline in protection. The bulk of the ‘loophole’ and deduction eliminations came from the Finance Committee. This was unthinkable just ten years prior. Though the reforms passed in this legislation were not durable at all ([Patashnik 2008](#)), the traditional protectors of EITC advancement, the Finance Committee, had been replaced by reformers who were hostile towards tax expenditure, and will



eventually be replaced by ideologues. Responsibility for the EIC no longer rested with a tight clique holding a key level of power, instead it moved towards, largely, the Democratic caucus with soft Republican favor as well (though this will start to erode too). This may not seem like an important change after all the support is still bipartisan and has resulted in large benefit increases but it will prove very important.

Specifically, the institutional arrangements evolved to such a way where the Congressional leadership, as an agent of the caucus speaks for the caucus. That said, they were also empowered to lead the caucus without constant direct democratic oversight from the caucus (Sinclair 1995). The trend in centralization between centralization and decentralization probably hit the tipping point with the Tax Reform Act of 1986. President Reagan wanted reform, Democratic leaders wanted to work with him and they delivered. As we will see, conflict over the EITC moves decisively away from committee and towards floor and chamber conflict, along partisan and ideological lines (Smith 1989).

Additionally, this consolidation period, even though it saw some large increases, also saw the blurring of lines between anti-poverty and Wage Subsidy. Rostenkowski and Reagan both agreed (and shaped legislation to this effect) that the working poor should pay income tax. This was the 'liberal contribution to the legislation in the sense that they were trying to protect certain people. In fact, while many other deductions were eliminated, the standard deduction was expanded to remove income tax burdens from lower income people. This was explicitly framed as a poverty reduction proposal that sought to reduce the number of people on welfare. This is somewhat of a change from the expressed desire to remove the payroll tax from low income people which was an anti-poverty mechanism, but was not tied explicitly to poor people. The result is that even though this program has not been compared to 'welfare, it was beginning to draw comparisons between those who benefit from welfare and those who benefit from the EITC.

### 5.3 Modern Years: Politicization and Increase of Risk

The ‘modern years’ start in 1993 with President Clinton’s budget proposal. Driven by the President expressing a desire to “make work pay,” Clinton called for a \$30 billion increase to the EITC and also to extend the credit to childless workers as well. As we will see, he gets his increase, but by completely re-configuring the supporting coalition and by relying on the much stronger party institutions in Congress. This period also sees a full takeover of the Republican party in Congress by ideologically motivated and conservative MCs ([Zelizer 2007](#), [Theriault 2013](#)) which refocuses the political conflict around personal and partisan lines as opposed to the conflict between tax reformers and those who favored tax expenditures ([Lee 2009](#)).

We also see the end of the small incremental increases punctuated with larger changes that have been common place so far. In fact, after the increase in 1993 the EIC was not expanded again until 2001 and after that, not until 2009. Interspaced between those expansions were tweaks designed to deal with “fraud and to ensure that people were not over claiming. In other words, legislative efforts concerning the EITC would be more similar to how Congress deals with “cash assistance or more traditional welfare.

Ultimately, the decision to force an increase in the EITC that was outside the realm of bipartisan political consensus for the time was made possible by a legislature that had strong leadership that was able to achieve such a task, combined with supporters who wanted to increase the program for political reasons such as helping their President. Additionally, by coupling it as part of a welfare reform agenda, the program would be further pushed down a path where it is associated with welfare something that is still true today. As a result of these things and despite no lasting tangible harm, the EITC is more vulnerable to retrenchment now should a regime change occur.

### 5.3.1 The Clinton Budget

Signed into law on August 10, 1993, the Omnibus Budget Reconciliation Act of 1993 included the biggest increase to the EITC in the history of the program and the biggest series of changes since the 1986 indexation to inflation. Attached as an integral part of the Clinton budget proposal, the President called for a \$30 billion increase to the program, with a one child family getting an 11% increase in the top rate and a two child family getting a 15% increase. Phase out points were lowered and the breakeven point was expanded too. Coupled with the proposal to give workers without children the credit for the first time in its history, this was a step towards a very large expansion of the program.

This part of the budget drew heavy Presidential support, but the way it was framed and pushed along was subtly different than previous expansions. In his 1993 State of the Union, Clinton said “[b]y expanding the refundable earned-income tax credit, we will make history. We will reward the work of millions of working poor Americans by realizing the principle that if you work 40 hours a week and you’ve got a child in the house, you will no longer be in poverty,” (Clinton 1993). This expression of explicitly stating that the program was for the working poor represented a change from previous efforts the stated goal intended a reduction in the welfare rolls. Additionally, the idea that “working 40 hours” a week entitles a recipient to some standard of living raised the idea that the EITC may actually share traits associated with entitlements (Ventry 2001). Coupled with the idea that after the expansion, the EITC cost around twice as much as AFDC and was a major “pillar of American social insurance (Myles and Pierson 1997), the idea to associate the program more closely to poverty and poor people would change its trajectory forever.

Unlike previous vehicles, the EITC increase was assaulted all along the way, though the ire it was drawing was at least partially instrumental. The Clinton budget also included an increase in the gas tax which was deeply unpopular with most Republicans and some Democrats. In the Ways and Means Committee, ranking member Rep. Archer (R-TX) offered an amendment to cut the EITC

expansion and the gas tax increase to leave the budget revenue neutral. Later on, the Senate Finance Committee cut the EITC expansion to \$18 billion, from \$30 billion. There was no floor fight over the EITC, but the Congressional Black Caucus hinted that they would vote with Republicans against the budget if the conference committee did not restore the increases to the EITC (along with some other programs too) which the conference committee eventually did, though only to around \$20 billion.

The final budget, with the EITC at \$20 billion passed the House on August 5, 1993 with a 218-216 vote and it passed the Senate the next day, only passing because of a very restrictive rule in the House and reconciliation in the Senate. Even with that, it took an extensive amount of Presidential lobbying and at least one MC attributes her subsequent electoral loss a direct consequence of voting for the budget ([Krauss 1993](#), [Sarlin 2009](#)). It was also the first time that the EITC had been expanded when the legislative vehicle was controversial, in part, because of an EITC expansion.

There are two lessons we can observe from this event, both of which are consistent with the way this story is developing. First, once the program is subject to partisan conflict without the power of a specific veto point actor behind it (e.g. the Chairman of the Finance Committee), the program may be less protected. Similarly, if the majority of a party becomes opposed to a program or if a program becomes unpopular to a significant chunk of the party, sustained attempts at retrenchment may result in reducing program popularity among MCs. Second, Republicans started focusing on removing tax breaks for low income people because they were now starting to think of those as welfare. This is a reversal in nearly 25 years of behavior that was, in part, caused by the heavy handed way President Clinton sought this increase and the way he presented it to everyone.

The seemingly complete transition from a program dictated by committee to a committee dictated by the floor was an extremely important development. Early conflict was framed as conflict between those in support of tax expenditures versus those opposed. This allowed the coalition to frame the program as a tax

program rather than a welfare program. The way these coalitions perceive the program, in many ways, results in the way they think of their interests and in turn, choose which policy tools to expand or contract. To that end, the Earned Income Credit expansions only came when it was framed as a tax incentive to stay in the labor market. With the Clinton budget and the welfare reform attempts, it became much more closely associated with welfare than ‘work incentives.’

### **5.3.2 Welfare Reform and the Earned Income Tax Credit**

The successful welfare reform package that the Republican led Congress presented to the President gutted AFDC, but left the EITC largely intact, but not by their choice. In fact, one of the two main legislative vehicles for welfare reform (their 1995 budget proposal) that Republicans advanced originally before getting the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PPWORA) passed rolled back the EITC expansion from the 1993 budget and changed the phase out value to enact deep cuts in the maximum benefit. The standalone Republican bill, which was also vetoed, but because of Medicaid cuts, did not include excessively drastic changes to the EITC though it included some, including prohibitions on undocumented immigrants precisely because the other attempt was vetoed for the effort.

As a result of the EITC’s inclusion to the welfare reform effort, President Clinton sent a strong signal that the EITC was to be considered a welfare program as opposed to lumping the program’s increases with taxation. In no small part due to this change in messaging strategy, Republicans started reacting to the EITC as welfare in a way they had not previously done on any large scale level. The Ways and Means Committee held a hearing on how to best address EITC over payments to recipients and to discuss how often fraud occurred and Sen. Don Nichols (R-OK) remarking that the EITC is “an income redistribution scheme that the administration has greatly expanded, in my opinion, without looking at costs. In other words, an expensive welfare program. (See [The Committee](#)

On Ways And Means House Of Representatives 1997, and especially Goldberg 2007, Pg 249-250 for extensive discussion on conservative quotes beginning the ‘welfarization’ the EITC)

This exchange, with respect to the EITC, was obviously won by the President, but this was only the case because of his ability to veto the bill. For the first time in the program’s life, it has faced a concerted retrenchment effort due to a hostile majority in a centralized legislature. This represents the start of a new stage where a “live by the sword, die by the sword” mentality starts creeping into the politics Had Clinton not leveraged his advantage in Congress during the earlier budget, and barely eked out a winning vote, this would not have happened. The number of steps to advancing or cutting a program are now reduced and when a previously strongly bipartisan program gets used to score a political victory, the losers may retaliate in kind.

### **5.3.3 Subsequent Developments: Subtle Retrenchments, Lasting Changes**

In part because of the politicization of the EITC in both message and legislative strategy, the EITC faced subtle retrenchment following OBRA93 and Republican inability to cut the EITC. Congressional Republicans were unable to make drastic changes, due to a hostile President, but they were able to cut the program around the edges. For instance, in a bill expanding health care deductions, Ways and Means (now) Chair Archer (R-TX) attached an amendment limiting how much investment income a recipient could have and still qualify for the program (PL 104-7) and the Tax Payer Act of 1997 denied EITC eligibility to a potential recipient for two years if found out to have submitted a “reckless” form. These retrenchments are similar to the way the program was originally established. They take what they can get given the political consensus and do not attempt whole scale cuts. While this has not resulted in drastic changes and the program still expands due to the indexation to inflation and two key expansions in the 2000s,

we shall see that the allure of the program is tarnished.

The change in the politics surrounding the EITC following OBRA and the concerted assault on the program by Republicans in the 104th Congress still reverberates even though conflict surrounding the program has changed the dynamic. For instance, the first Bush tax cuts saw relatively large increases to couples receiving the Earned Income Credit. While the debate surrounding that legislative vehicle was extremely acrimonious, the program increases were designed to win over moderate Democrats who were inclined to not support such a drastic decrease in taxes. The program was also temporarily increased in the American Recovery and Reinvestment Act of 2009. Included in that proposal were large concessions to Republicans as well, but the vote was ultimately a party line vote.

These events suggest that the program is associated with a Democratic coalition. It was used as a carrot to get certain Democrats on board for large tax cuts and it was included in a Democratic proposal which every Republican voted against to help stimulate the economy. This sort of coalition is not unexpected in an era with partisan conflict and centralized leadership, but it reduces the long term prospects of the program.

## 5.4 Conclusion

In the end, the Earned Income Credit is an extensive program that provides relief for millions of people. A large amount of this success rests with the conditions under which the program was created and shepherded along. As those conditions faded away, the program still expanded, but I have argued that those expansions are less durable than the expansions earlier on in the program's life. The changes associated with the centralizing of power in the Congress, the change in how the program is viewed, and the collectivization of program responsibility have had and will continue to have influence on how future EITC debates proceed.

In this chapter, I have suggested that as power diffused among more actors and more individuals, both sides of the program became more partisan and the

program became less amenable, but amendments that were passed were generous. These developments, in many ways, reflect a growing polarization of Congress and a centralization of its institutions. To that end, the process that generated the politics and provisions of the EITC eroded over time, but kept some of the original traits. In this way, it is still fundamentally close to a Downsian program. For instance, the program never really developed outside interests to oppose or support the program. Additionally, the program kept being designed to appease the median voter. Even in the most contentious expansion of the program – the Clinton budget expansion – the goal was to get 218 votes to pass it.

That said, as the program grew over time, it also developed traits that made it more like the minimum wage. As I discussed, it became more partisan, moved the conflict into more open spaces such as the Congressional floor, and became more salient and accessible to outside interest. In this way, the program became more like a ‘organized combat’ set of politics even if the root politics remained relatively stable.



## Chapter 6

# Conclusion and Discussion

In this dissertation, I have written about the enactment and development of two key wage support programs in the United States as functions of changing coalitions and Congressional organization. In describing the creation and development of those programs, I tried to offer answers to three questions. The first question is how do the politics of these two policies work? The second question is do the political dynamics surrounding these two wage support policies differ, and if so how? The third question is how do differences and similarities in the political dynamics affect the scope and coverage of the two programs? In attempting to answer these questions, I outlined some ways in which the enactment and development of the EITC and Minimum Wage might fit within the two Hacker and Pierson frameworks of thinking about politics. In the most general sense, I have argued that the EITC shares traits with the Downsian framework, while the minimum wage shares traits with the organized combat framework. I also suggested that the politics of the two programs converged in some ways.

That said, I offered an extension to the Hacker and Pierson framework by deeply integrating a moving Congressional backdrop to the evolution of these programs. Specifically, I suggested that broad structural changes in the way Congress operates have changed the way wage support policies develop. I pinpointed the specific factors of Congressional centralization and the sorting of political parties

as having significant influence on how the policies and their provisions developed. The ‘congressional context,’ of these two factors affected the enactment of the two programs, which occurred at discrete moments in history and it also affected the way the programs developed over time as the context changed as well.

## 6.1 Descriptive Findings

In thinking about the enactment of the minimum wage, I focused on the role of two relevant interests and their respective institutional strengths in constructing the policy. The first of those two was a divided labor constituency and the second was the ‘southern cage’ or southern conservative Democrats. I suggested that the wage floor program reflected the strength of southern Democrats who controlled important committees and remained a steady opposition block during floor politics, as well as a divided labor constituency. In turn, the combination of these splits – one regional and one more philosophical – in the Democratic Party, allowed bill opponents to extract conservative changes to the bill in defiance of Roosevelt’s intent.

Pivoting to the enactment of the EITC, I suggested that the ideological characteristics of the coalitions and the organizational distribution of power, are central to understanding the enactment and content of the policy. I argued that the key provisions in the EITC reflected the strength of an ideologically moderate and bipartisan coalition controlled within one of the main committees where tax policy was formulated. More specifically, this coalition constructed a program that appealed more closely to the median MC rather than the average MC for one of the parties. Further, the use of a tax based wage subsidy as a policy tool attracted centrist MCs.

In describing the growth of the federal minimum wage, I wrote about how changes in congressional context impacted the wage’s provisions between 1938 and 2016. I also suggested that the evolution of the minimum wage intensified some of its ‘organized combat’ traits. Specifically, the program became more

partisan, the most important actors moved from the committee to the floor, and the intensity of the conflict grew.

Turning back to the EITC and its development, in chapter three I suggested that the organizational and coalition changes affected the EITC. I argued that as the balance of power shifted from committee chairs to party members and chamber leadership, direct control over the program's destiny by program advocates declined as well. This was especially consequential because early growth of the EITC was due to advocates having tight control over the process. By removing power from the committees, there was a reduction of power of the advocacy coalition to protect and expand the EITC and to control the scope of conflict. It also resulted in a loss of control over messaging as the power to attach EITC reforms to legislative vehicles and have success in advancing those proposals.

## **6.2 Broader Suggestions and Implications for Political Frameworks**

In describing the enactment and development of those two programs, I suggested that the EITC was closer to the Downsian framework. There was an emphasis on pivotal actors, self contained political dynamics, and consensus building. A politics as usual sort of mentality. As Hacker and Pierson (2014) describe the Downsian framework, it is a model that is parsimonious with limited moving parts. In many ways, the early years of the EITC was like this, however as the program developed, it developed some traits that made it more like the organized combat model such as highly salient and partisan conflict.

I also suggested that the enactment of the minimum wage fit better with an organized combat framework, but over time it developed certain traits that are more closely associated with the Downsian framework. Early on, the program engaged significant outside interests as part of the policy making process; it was extremely bitter, the outcome of the program was ideologically important to the participants,

and coalitions shifted often. Over time, the politics became more formalized and coalitions stabilized. Many of the votes became increasingly minimum winning and the relationship between elections and the policy became tighter.

Beyond the changes in the program over time, there are some implications for other parts of the policy making process. One is that the way a policy is designed interacts with Congressional context, which suggests that Congressional context acts as an intermediary step between aggregating interests and developing policy. Namely, that the way different actors (and the interests they represent) are empowered impact the choices made in constructing a policy. For instance, consider the minimum wage enactment – a multitude of different and competing interests were able to leverage their advantages in the decentralized Congress to encourage changes to the legislation that they preferred. A few changes here and there, amplified by the power afforded to committees, and federal minimum wage laws were much weaker.

A second related implication is that the choices Congress made to overcome barriers at the time of enactment reverberate over time. As we know from significant bodies of literature, the ability of Congressional actors to implement policy can sometimes have a large impact on the sustainability of that policy (Lieberman 1998, Campbell 2005, Patashnik 2008). In the case of the minimum wage, nearly all of the labor conflict came over a debate about how much control the bureaucracy would have. The focus afforded to limiting federal bureaucratic control of wage setting and industries included too, which was so important to expanding social security to all groups, proved to be an extremely important strategy by the AFL and their success in advocating it proved to be immensely consequential for the long term sustainability of the program. Congress asserted that they would be in charge of wage changes, not a bureaucratic entity, so the wage would remain pressured by Congressional politics instead of insulating them in the bureaucracy. Another important related factor; the wage development was impacted by stripping out so many industries protected by the law. This removed protections from people who presumably would have agitated to protect them, narrowing what

would have been a positive constituency. In other words, if the existing literature on creating sustainable policy focused on constructing positive feedback through empowering groups and developing constituencies, Congress removed those factors, largely to appeal to Southern dominated committees and certain opposed unions. These choices very strongly set the stage for subsequent minimum wage debates, most directly, the fact that Congress has direct control over every part of the program.

We do not really see these sort of dynamics as strongly with the EITC because there were no desires to build outside feedback. That said, the early advocates made efforts to keep the program's early trajectory within the committee – a choice that reverberated across the program's life. There are interesting questions about this as the program was expanded without exogenous pressure. In any case, the choices made at enactment echo across the policy's life – underscoring work done by people like [Patashnik \(2008\)](#).

As a final thought, it is highly possible that the dynamics that have affected the development of the EITC and Minimum Wage affected the development of other policies. As Congress polarized, and more power was given to party leaders, it seems plausible that other programs fell into the same sort of patterns as the EITC and Minimum Wage – high stakes gamesmanship over the outcome of the policies. It would be worth looking at how other policies developed over time.

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## Appendix A

# Serious Minimum Wage Reform Attempts

Table A.1: Major House Action on the Minimum Wage

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>1946</b>	Unclear, probably voice.	None	None	None	None	Failed in House
<b>1949</b>	15-6	Final: 233-189 <sup>1</sup> GOP: 150-14 Dem 83-173 ND: 6-136 SD: 77- 37	Final: 364 - 38 <sup>2</sup> GOP: 141-14 Dem: 221- 24 ND: 134-0 SD: 87-24	131-19	None	Enacted into Law
<b>1955</b>	Voice Vote	None	Final: 365-56 <sup>3</sup> GOP: 170-25 Dem: 195-31 ND: 117-0 SD: 78-31	Voice Vote	None	Enacted into Law
<b>1960</b>	19-9	Final: 217-208 <sup>4</sup> Dem: 92-181 GOP: 125-27 ND: 6-162 SD: 86-19	Final: 344-79 <sup>5</sup> GOP: 134-35 Dem: 210-44 ND: 147-2 SD: 63-42	None	None	Died in Conference

<sup>1</sup> RC90

<sup>2</sup> RC91

<sup>3</sup> RC64

<sup>4</sup> RC162

<sup>5</sup> RC163

Table A.1: Major House Action on the Minimum Wage

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>1961</b>	19-12	Final: 219-207 <sup>6</sup> GOP: 143-26 Dem: 76-181 ND: 2-149 SD: 74-32	Final: 344-79 <sup>7</sup> GOP: 134-35 Dem: 210-44 ND: 147-2 SD: 63-42	Final: 232-198 <sup>8</sup> GOP: 33-138 Dem: 199-60 ND: 151-0 SD: 48-60	None	Enacted into Law
<b>1966</b>	Unclear, probably voice.	No whole scale substitute attempt	Final 310-99 <sup>9</sup> GOP: 90-41 Dem: 220-58 SD: 40-54 ND: 180-4	Final: 280-108 <sup>10</sup> GOP: 75-49 Dem: 205-59 SD: 36-57 ND: 169-2	None	Enacted into Law

<sup>6</sup> RC14

<sup>7</sup> RC16

<sup>8</sup> RC23

<sup>9</sup> RC261

<sup>10</sup> RC327

Table A.1: Major House Action on the Minimum Wage

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>1973</b>	21-9	Final: 200-218 <sup>11</sup> GOP: 150-38 Dem: 50-179 ND: 3-148 SD: 47-31	Final: 289-132 <sup>12</sup> GOP: 80-105 Dem: 209-27 ND: 151-2 SD: 57-25	Final: 255-153 <sup>13</sup> GOP: 56-126 Dem: 198-27 ND: 148-1 SD: 50-26	Final: 260-165 GOP: 54-135 Dem: 205-30 ND: 152-2 SD: 53-28	Vetoed
<b>1974</b>	Unclear, probably voice.	None	Final: 376-37 <sup>14</sup> GOP: 157-26 Dem: 218-11 ND: 148-1 SD: 70-10	Final 348-50 <sup>15</sup> GOP: 138-40 Dem: 209-10 ND: 141-1 SD: 67-9	None	Enacted into Law

<sup>11</sup> RC119

<sup>12</sup> RC129

<sup>13</sup> RC310

<sup>14</sup> RC603

<sup>15</sup> RC619

Table A.1: Major House Action on the Minimum Wage

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>1989a</b>	22-13	Final: 203-221 <sup>16</sup> GOP: 159-17 Dem: 44-204 ND: 6-166 SD: 38-38	Final: 250-175 <sup>17</sup> GOP: 23-151 Dem: 227-24 ND: 171-3 SD: 56-21	Final: 250-176 <sup>18</sup> GOP: 23-149 Dem: 227-27 ND: 171-3 SD: 56-24	Final: 247-179 <sup>19</sup> GOP: 21-151 Dem: 226-28 ND: 171-3 SD: 55-25	Veto Sustained
<b>1989b</b>	Voice Vote	No Concerted Effort	Final: 387-37 <sup>20</sup> GOP: 138-35 Dem: 249-2 ND: 169-1 SD: 80-1	None	None	Enacted into Law

<sup>16</sup> RC119

<sup>17</sup> RC129

<sup>18</sup> RC360

<sup>19</sup> RC783

<sup>20</sup> RC619

Table A.1: Major House Action on the Minimum Wage

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>1996</b>	33-3	Final: 267-162 <sup>21</sup> GOP: 77-156 Dem: 189-6 ND: 137-0 SD: 52-6	Final: 282-144 <sup>22</sup> GOP: 138-188 Dem: 188-6 ND: 137-0 SD: 51-6	Final: 355-72 <sup>23</sup> GOP: 160-70 Dem: 194-2 ND: 140-0 SD: 54-2	None	Enacted into Law
<b>2000</b>	None	None	Final: 282-143 <sup>24</sup> GOP: 78-137 Dem: 203-5 ND: 155-0 SD: 48-5	Final: 237-175 <sup>25</sup> GOP: 203-6 Dem: 33-168 ND: 21-128 SD: 12-40	None	Died in Senate

<sup>21</sup> RC1058

<sup>22</sup> RC1061

<sup>23</sup> RC1264

<sup>24</sup> RC653

<sup>25</sup> RC1166

	House Committee Vote	House Substitute Vote	House Floor Vote	House Conference Vote	House Veto Override	Final Outcome
<b>2007a</b>	None	None	Final: 218-213 <sup>26</sup> GOP: 2-199 Dem: 216-14 ND: 166-8 SD: 50-6	Final: 218-209 <sup>27</sup> GOP: 2-196 Dem: 216-13 ND: 166-7 SD: 50-6	None	Vetoed
<b>2007b</b>	None	None	Final: 348-73 <sup>28</sup> GOP: 123-72 Dem: 1-75 ND: 169-1 SD: 56-0	None	None	Enacted into Law

<sup>26</sup> RC185

<sup>27</sup> RC264

<sup>28</sup> RC418

Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
		First Attempt: <sup>29</sup> Final: 51-38 GOP: 24-11 Dem: 27-26 ND: 7-23 SD: 20-3 Second Attempt: <sup>30</sup> Overall: 51-42 GOP: 25-12 Dem: 26-29 ND: 7-25 SD: 19-4				
<b>1946</b>	Unclear, probably voice.		Voice Vote	None	None	Failed in House
<b>1949</b>	Voice Vote	None	Voice Vote	Voice Vote	None	Enacted into Law
<b>1955</b>	Voice Vote	None	Voice Vote	Voice Vote	None	Enacted into Law

<sup>29</sup> RC121

<sup>30</sup> RC124



Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
<b>1960</b>	13-3	Final: 40-58 <sup>31</sup> GOP: 24-10 Dem: 16-48 ND: 2-39 SD: 14-9	Final: 65-34 <sup>32</sup> GOP: 15-18 Dem: 50-16 ND: 39-3 SD: 11-13	None	None	Died in Conference
<b>1961</b>	13-2	Final: 37-63 <sup>33</sup> GOP: 21-13 Dem: 16-50 ND: 0-42 SD: 16-8	Final: 70-31 <sup>34</sup> GOP: 16-19 Dem: 54-12 ND: 42-0 SD: 12-12	Final: 70-30 <sup>35</sup> GOP: 17-17 Dem: 53-13 ND: 42-0 SD: 13-11	None	Enacted into Law
<b>1966</b>	Unclear, probably voice.	No whole scale substitute attempt	Final: 78-21 <sup>36</sup> GOP: 21-12 Dem: 57-9 ND: 45-0 SD: 12-9	Final: 60-40 <sup>37</sup> GOP: 10-23 Dem: 50-17 ND: 44-1 SD: 6-16	None	Enacted into Law

<sup>31</sup> RC397

<sup>32</sup> RC402

<sup>33</sup> RC26

<sup>34</sup> RC31

<sup>35</sup> RC32

<sup>36</sup> RC438

<sup>37</sup> RC446

Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
<b>1973</b>	13-3	Final: 41-58 <sup>38</sup> GOP: 30-13 Dem: 9-45 ND: 0-41 SD: 9-4	Final: 64-34 <sup>39</sup> GOP: 16-25 Dem: 48-7 ND: 41-0 SD: 7-7	Final: 65-30 <sup>40</sup> GOP: 19-21 Dem: 46-7 ND: 39-0 SD: 7-7	None	Veto Sustained
<b>1974</b>	None		Overall 72-26 <sup>41</sup> GOP: 20-19 Dem: 52-5 ND: 42-0 SD: 10-5	Overall 81-20 <sup>42</sup> GOP: 28-14 Dem: 53-4 ND: 42-0 SD: 11-4	None	Enacted into Law

<sup>38</sup> RC291

<sup>39</sup> RC299

<sup>40</sup> RC355

<sup>41</sup> RC652

<sup>42</sup> RC679

Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
<b>1989a</b>	11-5	Overall: 42-58 <sup>43</sup> GOP: 39-6 Dem: 3-52 ND: 0-38 SD: 3-14	Overall: 63-38 <sup>44</sup> GOP: 10-36 Dem: 53-2 ND: 38-0 SD: 15-2	Overall: 63-38 <sup>45</sup> GOP: 10-36 Dem: 53-2 ND: 38-0 SD: 15-2	None	Veto Sustained
<b>1989b</b>	Voice Vote	No Concerted Effort	Overall: 90-9 GOP: 37-9 Dem: 53-0 ND: 36-0 SD: 17-0	None	None	Enacted into Law
<b>1996</b>	Unclear, probably voice	Final: 46-53 <sup>46</sup> GOP: 46-5 Dem: 0-48 ND: 0-38 SD: 0-10	Final: 75-24 <sup>47</sup> GOP: 27-24 Dem: 48-0 ND: 38-0 SD: 10-0	Overall: 77-22 <sup>48</sup> GOP: 31-22 Dem: 46-0 ND: 37-0 SD: 9-0	None	Enacted into Law

<sup>43</sup> RC30

<sup>44</sup> RC39

<sup>45</sup> RC68

<sup>46</sup> RC796

<sup>47</sup> RC799

<sup>48</sup> RC878

Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
<b>2000</b>	None	None	Final: 83-14 <sup>49</sup> GOP: 50-2 Dem: 33-12 ND: 26-11 SD: 7-1	None	None	Died in Senate
<b>2007a</b>	None	None	Final: 51-48 <sup>50</sup> GOP: 2-47 Dem: 48-1 ND: 43-1 SD: 5-0	Final: 51-47 <sup>51</sup> GOP: 2-46 Dem: 48-1 ND: 43-1 SD: 5-0	None	Veto Sustained

<sup>49</sup> RC379

<sup>50</sup> RC126

<sup>51</sup> RC147

Table A.2: Major Senate Action on the Minimum Wage

	Senate Committee Vote	Senate Substitute Vote	Senate Floor Vote	Senate Conference Vote	Senate Veto Override	Final Outcome
<b>2007b</b>	None	None	Final: 80-14 <sup>52</sup> GOP: 42-3 Dem: 38-10 ND: 10-5 SD: 5-0	None	None	Enacted into Law

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<sup>52</sup> RC181