

New York's minimum wage tax credit slammed as poorly designed and wasteful

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on April 28, 2013 at 7:39 AM, updated April 28, 2013 at 7:41 AM

Syracuse, N.Y. -- New York's newly approved tax credit for employers who pay teens minimum wage is one of those laws that few but its creators seems to like.

Pro-business and pro-labor groups both say the tax credit was poorly designed and hastily composed, and that it's a blank check from taxpayers to businesses – many of them large corporations like Wal-Mart.

No other state appears to have done anything like it before.

"It's utterly unprecedented in the United States," said Paul Sonn, legal co-director of the National Employment Law Project in Washington, D.C. "We're not aware of any state that has adopted a tax credit remotely resembling this one, which will have the taxpayer pick up the tab for the cost of the minimum wage increase for a certain category of worker."

The newly adopted state budget raises the minimum wage over three years from \$7.25 to \$9 an hour. To appease critics who feared the rise would hurt businesses, the Legislature agreed to give a tax credit to businesses that employ students ages 16 to 19.

By the time the minimum wage reaches \$9 in 2016, employers will be eligible to get from the state \$1.35 for every hour those teens work.

Assemblyman Bill Magnarelli, D-Syracuse, said the credit was a necessary compromise to get a higher minimum wage.

"I think it was important to the people of New York and to the people in my district that a minimum wage be passed," he said, "and this was a compromise to getting that done."

Like many elements of this year's budget, no public hearings were held and no testimony was taken on the [tax credit proposal](#). It emerged in closed-door meetings between Cuomo and legislative leaders, and was announced just days before the budget vote.

Critics say the tax credit will cost more than Gov. Andrew Cuomo's office estimates, could put some older workers out of jobs, and encourage employers to pay the minimum wage and not a penny more.

And it will mean that [taxpayers will subsidize](#) the wages of at least 75,000 teen-age students – many of whom come

from middle-class families.

Cuomo's office estimates the cost to taxpayers at \$230 million for the first four years of the credit, 2014 to 2017. But a Post-Standard review of statistics from the Census Bureau and the Fiscal Policy Institute show the cost could be more than \$440 million.

The higher estimate relies on Fiscal Policy Institute data – drawn from the U.S. Census Bureau -- that shows teens work 52 weeks a year, rather than the 35 weeks a year assumed in Cuomo's estimates. In addition, the higher figures reflect an increase in the number of teens who earn more than \$8 but less than \$9 an hour who would be available for the credit in succeeding years as the wage and credit rise.

And that doesn't factor any increase in the numbers of teens that employers may hire instead of adults 20 and older.

"The magnitude of the taxpayer cost depends heavily on how employers react in terms of substituting student teenagers for older workers," said James Parrott, deputy director of the Fiscal Policy Institute.

Other states allow employers to pay teens lower wages, and some states allow businesses to pay temporary "training" wages lower than the minimum wage. The Business Council of New York believes that would have been a better solution than the tax credit, said spokesman Rob Lillpopp.

Democrats rejected the training wage because it was a "backdoor way" for businesses to avoid paying the minimum wage, said Mike Whyland, spokesman for Assembly Speaker Sheldon Silver.

The training wage "has the potential to incentivize employers to essentially cycle through employees who are due to get an automatic increase, and it favors hiring younger workers over adults under the guise of encouraging teen employment," Whyland said.

Some business owners like the tax credit. Lisa King, who employs teen-age students at Vicky's Tasty Treat in Liverpool, said she supports both the minimum wage increase for her employees and the tax credit for her business.

"I think a lot of students these days are paying for their own cars, they're paying for their own clothes, they're paying for their own textbooks for school," King said. "I'm OK with the increase based on the fact that we get help from the tax credit."

Senate Republicans had opposed an increase in the minimum wage, and when it became clear the wage had strong support, they insisted on a way to blunt the cost to businesses.

"We had suggested a (lower) teenager or youth wage, and this was the compromise," said Scott Reif, spokesman for the Senate's Republican conference.

A tax credit is a dollar-for-dollar refund on taxes. A business must pay the teen the prevailing minimum wage, and then gets a refund on its tax bill for the year the teen was employed.

New York already offers a more limited tax credit program for unemployed, at-risk urban youth called the Youth Tax

Works Credit, which ran in 2012 and will start up again in 2014. It requires both the employer and employee to meet certain criteria, and it allows the state to make public the amount of credit each company receives.

That youth works credit also caps the cost to the state at \$6 million per year and the credit to the employer at \$4,000 per employee.

The new minimum wage tax credit, by contrast, has no caps for employers or the state, is open to any business large or small, and doesn't contain a provision to make information public.

The Fiscal Policy Institute, [which has pushed for years](#) to increase the minimum wage, says the tax credit essentially [creates a maximum wage](#) for teen workers.

Frank Mauro, the institute's executive director, notes that the employer receives the credit only if the teen worker receives minimum wage. Pay a teen a nickel more an hour, he said, and the entire credit for that worker vanishes.

"In 2014 you only get this credit for the hours for which you pay a teenage student exactly \$8 an hour," Mauro said. "If you pay them \$8.05 an hour, you don't qualify."

Another possible consequence: Employers might be less likely to hire adult workers for \$9 an hour or more if they can hire a teen for \$7.65 an hour after the credit.

Austin Nichols, a senior research associate at the Urban Institute's Income and Benefits Policy Center in Washington, D.C., said he believes the tax credit will make teenage workers more attractive to employers, who might hire teens instead of older workers.

"The tax credit will amount to a giveaway to employers of teenage workers," Nichols said, "and seems a poorly designed compromise."

The Fiscal Policy Institute says Wal-Mart alone might receive \$19 million over the next five years under the tax credit with its current staff. If the company hired 10 percent fewer adults and hired teenage students instead, the institute said, Wal-Mart could get credits of \$53 million.

Several labor unions have even said [Wal-Mart's \\$400,000 campaign contributions](#) to Senate Republicans since 2001 influenced the legislation.

The law forbids employers from firing older workers and replacing them with teens just to get the tax credit, although critics say that would be hard to prove. The law does not prevent companies from hiring teenage students instead of older workers to get the credit.

The credit is so unpopular that state Sen. Jose Peralta, a Queens Democrat, has already [introduced a bill](#) to repeal it.

"Call it corporate welfare or just plain nuts, we shouldn't fork over so much as a dime of tax money to a multinational titan to help it pay for a small, gradual bump up in the minimum wage," Peralta said in a news release. "And that the tax break incentivizes discrimination against older workers and caps wages for teens at the minimum breaks the

stupid meter."

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