

WR SPECS

February 8 (WORK)

DRAFT: For discussion only

**WORK**Current Law

*There is at present nothing in Title IV of the Social Security Act concerning a work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (CFR 250.47).*

Vision

*The focus of the transitional assistance program will be helping people move from welfare to self-sufficiency through work. The two-year time limit is part of this effort. Some welfare recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to support their families.*

*The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit for transitional assistance. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and non-profits to place persons in unsubsidized private sector jobs.*

Definition: The terms "WORK assignments" and "WORK positions" are defined as temporary, publicly subsidized jobs in the public, private and non-profit sectors.

## 1. ADMINISTRATIVE STRUCTURE

- (a) Each State would be required to operate a WORK program which would make at least a minimum number of WORK assignments available to persons who had reached the time limit for transitional assistance.
- (b) States would be required to assign administration of the WORK program to a single State agency. The administrative structure of the WORK program at the State level would take one of the following three forms:

OPTION ONE.

States would have complete flexibility as to which agency would administer the WORK program, which would permit States to administer the JOBS and WORK programs either through the same agency or through different agencies.

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**OPTION TWO.**

States would be required to administer the JOBS and WORK programs through the same agency, but the provision in current law mandating States to administer the JOBS program through the IV-A agency would be eliminated, which would, for example, allow States to operate both programs through the JTPA system.

**OPTION THREE.**

States would be required to administer both the JOBS and WORK programs through the IV-A agency, but the IV-A agency would be encouraged to subcontract with the State JTPA program to provide services, including both WORK assignments and job search assistance, to WORK program participants.

**PROS AND CONS OF THE OPTIONS.**

Operating the JOBS and WORK programs through different agencies, as States would be permitted to do under Option One, could present serious administrative headaches. The agency in charge of the JOBS program would have a strong incentive to concentrate on the more employable participants, leaving the more difficult-to-serve for the WORK program. The agency operating the WORK program would have an equally strong incentive to put the blame for any difficulties it was experiencing in moving WORK program participants into unsubsidized jobs on the JOBS program's failure to adequately prepare them for employment.

On the other hand, a State might conclude that one agency is best suited for providing education and training services and moving recipients into work, while another is best equipped to generate WORK assignments which will lead to unsubsidized private sector employment. Moreover, separating the administration of the two programs would emphasize the distinction between cash assistance and the WORK program. A State might be aware of the potential for coordination problems and yet judge that the benefits from administering the two programs through different entities might outweigh the costs. It is not clear that such a State should be precluded from opting for this route.

Under Option Two, a State would be required to operate both programs through a single agency, but that agency could be an entity other than the IV-A agency. Apart from the issues concerning moving the JOBS program out of the IV-A agency, there is the question of coordination between the WORK program and the waiting list. Regardless of which entity administers the WORK program, the IV-A agency would likely need to be involved with respect to the waiting list, given that some monitoring of the activities required of persons on the waiting list would be needed (see Allocation of WORK Assignments/Waiting List below).

Assigning responsibility for the WORK program to the IV-A agency would not preclude extensive involvement by the JTPA system in the WORK program. Under Option Three, the IV-A agency could, for example, subcontract with the JTPA program to generate the WORK assignments in the private and non-profit sectors, keeping the task of creating public sector WORK assignments for itself.

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Option Three would give overall control of the WORK program to the IV-A agency. A State might strongly prefer to give the final say over the WORK program to the JTPA program or another entity and again, it is not clear that a State should be explicitly prohibited from doing so.

- (c) Localities would be required to designate a body with balanced private sector, union and community (e.g., community-based organization) representation, such as the local Private Industry Council (PIC), to provide guidance and oversight to the WORK program.
- (d) Each State would be required to make the WORK program available in all areas of the State by a specified date.
- (e) States would be permitted but not required to have the entity administering the WORK program act as the employer of WORK program participants with respect to disbursing paychecks, Workers' Compensation and so forth.

## 2. FUNDING

The actual cost of the WORK program, for budget purposes, is the additional cost of placing persons in WORK assignments relative to paying them cash benefits. The term "WORK program funds" as used below refers only to the new funding for developing and maintaining the WORK assignments. [The method of reimbursing States for wages paid to persons in WORK assignments will be considered as part of the discussion of all match rates (AFDC, JOBS and WORK) to be held separately.]

- (a) Federal WORK program funds would be allocated to States by the JOBS formula (see chart showing State allotments using the JOBS and JTPA formulas).

### RATIONALE:

Using a formula other than the JOBS mechanism to distribute WORK program funds would ensure a formula battle. An argument can be made for using the same formula for both JOBS and WORK funds, as both programs serve essentially the same population. Employing the JOBS formula, but with a countercyclical provision as discussed below, would to some degree take local economic conditions into consideration, without igniting a full-scale debate on the formula question.

- (b) Total Federal funds available for the WORK program would be capped.
- (c) A State's allocation of WORK program funds would be increased if unemployment in the State rose above a specified level, to be determined by the Secretary. The overall cap on WORK program funding would be raised accordingly. ?

## 3. FLEXIBILITY

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had

*Boaia:  
mixed JTPA  
& JOBS formula*

*CETA*

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reached the two-year time limit, with the stipulation that the combination of strategies employed by the State would have to generate the minimum number of WORK assignments (see Number of WORK Assignments below).

Approaches could include the following:

- Subsidize not-for-profit or private sector jobs (for example, through expanded use of on-the-job training vouchers).
- Offer employers other incentives to hire JOBS graduates.
- Execute performance-based contracts with private firms or not-for-profit organizations to place WORK program participants in unsubsidized jobs.
- Create positions in public sector agencies.
- Support microenterprise and self-employment efforts.
- Set up community service projects employing welfare recipients as, for example, health aides in clinics located in underserved communities.
- Employ adult welfare recipients as mentors for teen parents on assistance.

*Work for wages  
CWEP  
comm. service*

*→ lessons from CETA*

*Have to double diff. from CETA*

*MJB: Allow CWEP*

*add FS grant?*

*1/2 private or private placement  
1/2 new govt projects*

The approaches above would be listed in statute as examples, but States would not be restricted to these strategies.

- (b) States would be required to submit a WORK plan, similar to the State JOBS plan, for the approval of the Secretary. The Secretary would, as with the JOBS plan, consult with the Secretary of Labor on plan requirements and criteria for approving State plans.

4. LIMITS ON SUBSIDIES TO PRIVATE SECTOR EMPLOYERS

*NO*

- (a) The WORK program subsidy for a position in a private, for-profit firm would be limited to 50 percent of the wages paid to the participant.
- (b) For WORK assignments in the private sector, the wages of a participant could be subsidized for no more than 12 months, consistent with the 12-month time limit on any single WORK assignment (see below). If an employer chose to retain a participant after the subsidy ended, the position would no longer be considered a WORK assignment, but rather unsubsidized employment.

5. COORDINATION

- (a) States would be required to coordinate the WORK program with other employment programs, including the Employment Service, One-Stop Shopping and School-to-Work, as well as with the efforts of the Corporation for National and Community Service.

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JTPA/OST

6. RETENTION REQUIREMENTS

- (a) States would be required to track and monitor the performance of private, for-profit employers in retaining WORK program participants after the subsidy ended. Employers who had demonstrated a pattern of failing to retain WORK program participants at wages comparable to those of similarly situated employees would be excluded from the program. Prohibited employers would not be eligible for WORK program funds. The definition of a pattern of not retaining WORK program participants would be left to the discretion of the States.
- (b) States would similarly be required to monitor the performance of for-profit firms or not-for-profits with contracts to place WORK program participants into unsubsidized employment. Contractors that demonstrated a pattern of poor performance in placing WORK program participants into lasting unsubsidized jobs would likewise be prohibited from contracting with the WORK program. The definition of poor performance would, as above, be determined by the State.

Push state for training prog too

7. NON-DISPLACEMENT

- (a) Non-displacement language would be based on current law (Section 484(c), Social Security Act), except that WORK program participants could be placed in unfilled vacancies in the private sector, provided the vacancies were not created by layoffs (H.R. 11 would have eliminated the restriction on placing Work Supplementation participants in unfilled vacancies in the private sector).
- (b) Anti-displacement language applying to the public sector would be adapted from the non-displacement language in the National and Community Service Trust Act.

at least get discussion in public sector - why AFSCME agreed

8. NUMBER OF WORK ASSIGNMENTS

- (a) The participation standard for the WORK program would be expressed as a minimum average monthly number of WORK assignments each State would be expected to provide (see attachment on participation standards).

Phase in 425

RATIONALE

A State, acting in good faith, might easily expend the majority of its WORK program funds on placement contracts with private firms, only to find that the firms were placing participants who would have found jobs on their own, leaving the State with no money for WORK assignments and a sizeable waiting list. Spending on, for example, economic development might prove equally ineffective and leave a State in the same predicament. HHS would then be held accountable for what would be regarded as a waste of Federal funds.

A WORK program which grants States almost complete flexibility with no standard to meet may prove rather difficult to defend. An approach which might garner wider

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support would be to grant States great latitude provided some basic standard, e.g., providing a minimum number of WORK assignments, were met.

- (b) States would not be permitted to count unsubsidized private sector jobs toward the minimum number of WORK assignments.

#### RATIONALE

Counting placements into unsubsidized jobs toward the minimum number of WORK assignments would be problematic. It would be difficult to distinguish WORK participants who found, or would have found, jobs through their own efforts from those whose employment was attributable to State job placement strategies. Consequently, a State which was especially creative at counting could claim to have provided the minimum number of WORK assignments while still having a lengthy waiting list.

Moreover, States which were having difficulty generating the minimum number of WORK assignments would have an incentive to delay the movement of JOBS participants into private sector employment, in order to count these placements as WORK program positions.

- (c) The minimum number of WORK assignments for each State would be set by the Secretary, based on the participation standard and the number of persons who had been in the WORK program for less than two years (see attachment on participation rates).

The minimum number would be set such that States could meet the standard and still have WORK program funding available for supervised job search and other strategies (e.g., performance-based placement contracts with private firms).

#### 9. ALLOCATION OF WORK ASSIGNMENTS/WAITING LIST

- (a) If the number of persons who were eligible and applied for WORK positions exceeded the number of WORK assignments available at that point, a State would be required to allocate WORK assignments according to a priority system and to maintain a list of persons awaiting a WORK assignment. States would be mandated to give preference for WORK assignments to persons new to the WORK program (as opposed to persons that had already held a WORK position).
- (b) Each State would be required to establish a uniform set of rules by which the priority system would operate and inform all persons on the waiting list of these rules.
- (c) In localities in which the WORK program was not administered by the IV-A agency, the IV-A agency and the entity operating the WORK program would maintain the waiting list jointly. The WORK program agency would be responsible for placing persons on the waiting list into WORK assignments, while the IV-A agency would be responsible for ensuring that persons on the waiting list were participating in the required activities (e.g., self-initiated community service).

*Need overall  
work placement  
perf. std.*

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Waiting list policy could take one of the following three forms:

**OPTION ONE.**

Persons on the waiting list for a WORK assignment would be expected to find volunteer work in the community for at least 20 hours per week in order to be eligible for cash benefits. This volunteer work would be distinct from a WORK assignment. The recipient would be wholly responsible for arranging the place(s) and hours, and would not receive wages for hours worked. The cash assistance check would continue to be treated as benefits rather than earnings for all purposes.

**OPTION TWO.**

Same as Option One, except that a cap, to be set by the Secretary, would be placed on the number of persons who were required to perform volunteer work in exchange for benefits.

**OPTION THREE.**

Same as Option One, except that individuals who for good cause were unable to find volunteer work (e.g., persons unable to arrange for child care, individuals lacking suitable sites at which to volunteer) would be eligible for benefits provided they participated in another approved activity for at least 20 hours or 3 days per week. The range of allowable approved activities would be established at the State level, but could include human development activities such as parenting skills classes or domestic violence counseling, or self-initiated education or training. The State would not be required to fund participation in these activities.

**DISCUSSION OF THE OPTIONS.**

Option One presents something of a Catch-22. In order to sell self-initiated community service as work, roughly equivalent to a WORK assignment, it would be necessary to monitor compliance with the requirement fairly closely. If persons were required to volunteer for a minimum of 20 hours per week, child care would have to be provided. Monitoring and child care, however, represent the bulk of the cost of a WORK assignment. A strict 20-hour per week volunteering requirement is not consistent with the strategy of limiting the cost of the WORK program by not meeting the full demand for WORK positions.

Requiring persons on the waiting list to arrange to volunteer at a non-profit while the WORK program agency is approaching the same non-profits about providing WORK assignments is not an ideal situation. While relatively few non-profits would be willing and able to kick in part of the wage cost for WORK assignments, that number would fall to virtually zero if non-profits could as easily take on board persons eager to offer their time for free.

Unions (AFSCME, SEIU) concerned about WORK program participants working at below the prevailing wage would likely be even more alarmed about a strict self-initiated community service requirement, which could give non-profits and even public sector agencies easy access to free labor, without the administrative responsibilities associated with a WORK assignment.

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While there are serious problems with attempting to sell self-initiated community service as work, it can be presented as one of a number of appropriate activities for persons to engage in while awaiting a WORK assignment, an activity that can yield both personal and societal benefits. Option Three is an attempt to adapt the Michigan "Social Contract" concept to the WORK program waiting list. Volunteer work would still be the preferred activity, but persons unable to find volunteer work would be permitted to engage in other approved activities similar to the more informal Michigan "social contract" activities—self-initiated education and training or human development activities.

- (d) States would not be required to guarantee child care or supportive services to persons on the waiting list for participation in approved activities. States would, however, be required to provide child care and/or other supportive services if needed to enable a person on the waiting list to participate in supervised job search.
- (e) The State IV-A agency would be required to establish procedures, subject to the approval of the Secretary, for monitoring participation in approved activities.
- (f) States would not be permitted to distinguish between persons on the waiting list and other recipients of cash assistance with respect to the determination of eligibility and calculation of benefits—States could not provide reduced benefits to persons on the waiting list.
- (g) The IV-A agency would be required to make at least quarterly contact with individuals on the waiting list for a WORK assignment and to make case management services available to these persons. Persons on the waiting list would be required to engage in supervised job search either periodically or continuously, with the minimum number of hours to be set by the State (see Job Search below).

#### 10. TIME LIMIT ON PARTICIPATION IN THE WORK PROGRAM

- a) Individuals would be limited to a maximum of 12 months in any single WORK assignment, after which they would be placed on the waiting list for a new WORK position.
- b) There would be no time limit on overall participation in the WORK program.
- c) States would be required to conduct an assessment of each person who had completed at least two WORK assignments or had been in the WORK program for at least two years to determine if any additional services might be needed to enable that individual to secure private sector employment. In instances in which services other than a WORK assignment or job search were deemed necessary, persons would be permitted to participate in such activities, in lieu of self-initiated community service, while on the waiting list (even if volunteer work were readily available). States would have the option of making funding available for such activities, including education and training.

#### 11. ELIGIBILITY CRITERIA AND APPLICATION PROCESS

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- (a) Adult recipients who had reached the time limit for cash assistance and who otherwise met the cash assistance eligibility criteria (e.g., income and asset limits) would be eligible for a WORK assignment.
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all adult recipients who had reached the time limit for cash benefits. States would be permitted to establish an application process for the WORK program separate from the application for cash benefits, but would be prohibited from denying eligible persons entry into the WORK program, provided they agreed to comply with all WORK program rules and requirements.
- (c) In instances in which the cash benefit to the family did not exceed \$100 per month, the adult recipient(s) would not be subject to the work requirement.
- (d) States would have the option to apply the work requirement to only one parent in a two-parent family—only one parent would be permitted to participate in the WORK program.
- (e) An individual who had left the WORK program but had not earned back any months of cash assistance would be permitted to re-enroll in the WORK program, provided he or she did not quit a private sector job without good cause.

What if fired for cause?

EXAMPLE:

A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before earning back any months of cash assistance (see JOBS and Time Limits specifications for discussion of the earn-back provision). This person would be eligible for a WORK assignment.

- (f) States would have the option of assigning WORK program re-entrants to supervised or unsupervised job search for up to 3 months before placing them on the waiting list for WORK assignments (these WORK program re-entrants would be eligible for cash benefits while participating in job search).

WHY only 3 mos?

- (g) Persons who had left the WORK program but who voluntarily quit a job, otherwise reduced their earned income without good cause or refused a bona fide offer of private sector employment would not be permitted to re-enter the WORK program for a period of time to be set by the State, but not to exceed 3 months.

- (h) If the family income of an individual in a WORK assignment rose (e.g., through marriage or an increase in unearned income) such that the family's income, less WORK program wages, exceeded the income limit for cash benefits, the participant would still be permitted to complete the WORK assignment. At the conclusion of that assignment, however, the individual would not be eligible for the WORK program and accordingly would not be placed on the waiting list for a new position (unless the family's income had fallen back below the income limit before the conclusion of the WORK assignment). The same provision would apply if a family's circumstances otherwise changed (e.g., a child's leaving home) such that the family no longer met the eligibility criteria for cash benefits.

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→ Right to fire (for cause) people on the WORK program

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12. WAGES AND BENEFITS

(k) Participants in WORK assignments would be compensated for hours worked at no less than the higher of the Federal minimum wage and any applicable State or local minimum wage law. States would have the option to provide WORK assignments which pay an hourly wage higher than the minimum wage.

(b) The earnings disregard for WORK assignment wages would be set at a flat \$100 per month. Individuals in WORK assignments would not be eligible for the other disregards (e.g., thirty and one-third).

(c) Wages from WORK assignments would be treated as earned income with respect to Worker's Compensation and Federal assistance programs (e.g., food stamps, public and Section 8 housing). [Treatment of FICA awaiting analysis by CEA]

(d) Earnings from WORK positions would not be included in Aggregate Gross Income, and consequently would not be treated as earned income for the purpose of calculating the Earned Income Tax Credit.

(e) For WORK program participants not receiving cash assistance in addition to WORK program wages, child support collected would be paid directly to the WORK program participant. In instances in which the WORK program participant was receiving cash benefits in addition to WORK program wages, child support would be treated just as for any other family receiving cash benefits. If child support collected exceeded the cash benefit, the difference would be paid to the participant.

(f) Wages would be paid in the form of weekly or bi-weekly checks. In instances in which an individual was receiving both wages and cash benefits there would be separate checks for wages and for benefits, regardless of the entity issuing the check for hours worked (i.e., even if the IV-A agency were responsible for both paying wages and disbursing supplementary benefits, the two would not be combined into one check).

13. HOURS OF WORK

(a) States would have the flexibility to determine the number of hours for each WORK assignment, which could vary depending on the nature of the position. WORK assignments would have to be for a minimum of 15 hours per week or 65 hours per month, whichever is greater, and for no more than 35 hours per week or 150 hours per month, whichever is greater.

A State could, for example, make all WORK assignments the same number of hours (e.g., 20), regardless of the size of the grant, and supplement wages with cash benefits such that persons in WORK assignments are not worse off than those on the assistance. High-benefit States might choose to make the number of hours 30 or 35, as opposed to 15 or 20. States could also opt to calculate the number of hours for each participant by dividing the AFDC

Food STAMPS AS wages? - otherwise no work would be effect of FS increase

NO PASS-THRU?

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grant by the minimum wage (as under CWEP), provided that each participant was required to work at least 15 and no more than 35 hours per week.

NOTE: The marginal cost of enrolling an individual in a WORK assignment would not in general vary based on the number of hours of the WORK assignment (since wages would replace cash benefits on a dollar-for-dollar basis, apart from the disregard).

The marginal cost would vary with the hours of the WORK assignment if the WORK assignment wages, apart from the disregard, were actually higher than the cash benefits provided to the family (e.g., if Texas enrolled an individual in a three-person family in a 35-hour WORK assignment). A State would, however, still be required to generate the minimum number of WORK assignments, regardless of the number of hours.

#### 14. SANCTIONS

- (a) WORK program participants would receive wages for hours worked. Failure to work the set number of hours for a WORK assignment would result in a corresponding loss in earnings. Cash assistance would not act to offset the drop in WORK program earnings, for either WORK program participants who were already receiving supplemental cash benefits or for participants for whom the reduction in income would otherwise have made them eligible for cash assistance. The loss in wages would be treated as a decline in earned income with respect to other assistance programs.
- (b) A WORK program participant who repeatedly failed to show up for work or whose performance was otherwise unsatisfactory could be fired. The entity administering the WORK program would be required to determine if the individual was fired for cause. During the period in which the determination was being made, the family would continue to be eligible for cash benefits. Individuals who were determined to have been fired for cause would have the right to a fair hearing from the WORK program upon request. [Michael Wald will be developing language for this provision]
- (1) An individual who was fired from a WORK assignment for cause for the first time would be placed at the end of the waiting list for WORK assignments and the family would not be eligible for cash benefits for a period of 3 months after the date of determination. States would be required to make vendor payments to landlords and utilities if needed to prevent homelessness or utility shut-off.
  - (2) A person fired from WORK assignment for a second time for cause would be placed on the waiting list only after 6 months. During that six-month period, the family would not be eligible for cash benefits. States would, as above, be required to make vendor payments when necessary.
  - (3) Persons fired for a third time would not be able to enter the waiting list or receive cash benefits for a period of one year (vendor payment as above).

3  
firings!

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Time in sanction status would not be counted as time not in the WORK program for purposes of earning back eligibility for cash assistance.

- (c) States would be required to refer for intensive intervention persons fired for cause more than once (see Referrals to Services for Unsuccessful WORK Participants below).
- (d) Persons subject to the work requirement who were not eligible for cash benefits due to sanction would still be able to receive food stamps, Medicaid and other in-kind assistance.
- (e) An individual otherwise eligible for the WORK program who refused an offer of unsubsidized private sector employment without good cause would not be eligible for a WORK assignment for six months from the date of refusal. Cash benefits during this six-month period would be calculated as if the job offer had been accepted. When calculating benefits for families so sanctioned, the disregards would apply. The sanction would end upon acceptance of a private sector job. WORK program participants are permitted to refuse a job offer if accepting the offer would result in a net loss of cash income (as under current law, Section 402(a), Social Security Act). ] why?

#### 15. WORK PLACE RULES

- (a) Providers of WORK assignments, whether public, private or non-profit, would be required to treat WORK program participants as other entry-level employees with respect to sick and annual leave and other workplace rules. A State would have the option to waive this requirement for specific employers of WORK program participants, provided that the employer were complying with all applicable Federal and State laws concerning workplace rules.

#### 16. JOB SEARCH

- (a) WORK program participants would be required to engage in job search either continuously (e.g., 5-10 hours per week) or periodically (e.g., for four weeks immediately after completing a WORK assignment) or a combination of the two. Job search requirements for persons in the WORK program would be set by the State. While job search for persons on the waiting list is discussed above, that provision should not be read as precluding States from requiring persons in WORK assignments to also simultaneously participate in supervised job search. The combination of supervised job search and a WORK assignment or self-initiated community service/approved activity—i.e., of all WORK program activities—could not exceed an average of 35 hours per week in any month.

#### 17. SUPPORTIVE SERVICES

- (a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g), Social Security Act). States are also mandated to provide other supportive services as needed for participation in a WORK position (as with JOBS participants, Section 402(g), Social Security Act).

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**18. DEFERRALS**

- (a) Persons who had reached the two-year time limit and would otherwise be subject to the work requirement could be deferred from participation in the WORK program. The criteria for deferral from the WORK program would be identical to the criteria for deferral from the JOBS program (see JOBS and Time Limits specifications). Parents of newborn children would be deferred for a 120-day period following the birth of the child.
- (b) In localities in which the IV-A agency did not administer the WORK program, the entity operating the WORK program would refer persons meeting the deferral criteria to the IV-A agency, which would make the determination as to whether the individual should be deferred from WORK program participation.
- (c) Deferred persons would be eligible for cash benefits (not wages), without a requirement to find volunteer work, for as long as the condition necessitating the deferral continued.
- (d) Persons deferred from the WORK program would be treated as persons deferred from the JOBS program in all respects, except that once the deferral ended, they would re-enter the WORK program, rather than the JOBS program. Individuals deferred from the WORK program would count against the cap on the number of persons who could be deferred from participation in the JOBS program (see JOBS and Time Limits specifications).

**19. REFERRALS TO SERVICES FOR UNSUCCESSFUL WORK PARTICIPANTS**

- (a) The entity administering the WORK program would be required to arrange for intensive intervention, by, for example, a preventive service agency, for WORK program participants who had been fired from a WORK program position more than once. The agency responsible for the intervention would attempt to resolve the outstanding issues to enable the individual to hold a WORK assignment. In instances in which an individual has left the WORK program entirely, the agency would assess the family's food, housing and clothing needs and make referrals to child protective services if the children were at risk of abuse or neglect.

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12/20

## WORK

*The focus of the transitional assistance program will be helping people move from welfare to self-sufficiency through work. The two-year time limit is part of this effort. Some welfare recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work, through both economic development efforts to create private sector jobs and work assignments for those who cannot find private sector employment.*

### WORK PROGRAM

#### Current Law and General Direction of Proposal

*There is at present nothing in Title IV of the Social Security Act concerning a work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (CFR 250.61, 250.62, 250.63, Section 482(e) and 482(f), Social Security Act). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (CFR 250.47).*

*The WORK program would make half-time, minimum wage work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit for transitional assistance. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and non-profits to place persons in unsubsidized private sector jobs.*

**Definition:** The terms "WORK assignments" and "WORK positions" are defined as all approved WORK program activities except self-initiated community service (see below).

#### 1. Administrative Structure

- (a) Each State would be required to operate a WORK program which would make at least a minimum number of temporary paid WORK assignments available to persons who had reached the time limit for transitional assistance.
- (b) States would be required to assign administration of the WORK program to a single State agency, but would otherwise have considerable flexibility with respect to the administrative structure. For example, the WORK program could be administered through the local IV-A agency, with the local JTPA Service Delivery Area (SDA) contracting to provide some or all of the WORK positions.

ISSUE: Should States be required to administer the WORK program through the State IV-A agency? [If not, should localities be required to administer the JOBS and WORK programs through the same entity?]

-necess. for one-stop + perf stds.

YES, but don't mandate

*Doys: Don't mandate but offer a vision  
- Family Investment Center  
- one-stop hubs*

**ISSUE:** Should the IV-A agency or other entity operating the WORK program be encouraged to contract with the local JTPA SDA to provide WORK assignments? Should the SDA be designated as a "presumptive provider" of WORK positions?

- (c) Localities would be required to designate a body with significant private sector, union and community (e.g., not-for-profit) representation, such as the local Private Industry Council (PIC) to provide guidance and oversight to the WORK program.

*Nat. Service  
Comms.*

**ISSUE:** How much power would the oversight body wield? Would it have any sort of veto power over a locality's plan for operating the WORK program? Would its responsibilities be specified to some extent in statute or left entirely to the discretion of States/localities?

- (d) Each State would be required to make the WORK program available in all areas of the State by a specified date.

**ISSUE:** Would States be required to distribute WORK program funding throughout the State by a formula similar to the formula by which Federal WORK program matching funds are distributed to States?

2. Funding

- (a) Federal matching funds for the WORK program would be allocated to States by a formula based on the number of cash assistance recipients in the State (similar to the JOBS distribution formula).

**ISSUE:** Should the WORK program funding formula take into consideration the number of individuals expected to be subject to the work requirement (i.e., differences in welfare dynamics among States)?

- (b) Total Federal matching funds available for the WORK program would be capped. A State's allocation would be increased if its unemployment rate rose above a specified level.

**ISSUE:** Should countercyclical relief be provided by raising a State's allocation of WORK program funds?

3. Match Rate

- (a) Expenditures on the WORK program would be reimbursed at the JOBS match rate. The Federal match rate for the WORK program only, not the JOBS program, would be increased by 10 percentage points, up to a maximum of 90 percent, if unemployment in the State rose above the designated level (see Funding above).

**ISSUE:** Should countercyclical relief be provided through increasing the Federal match rate?

*?*

4. Flexibility

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, with the stipulation that the combination of strategies employed by the State would have to generate the minimum number of WORK assignments. States would be sanctioned for failure to meet this minimum standard (see Number of WORK Assignments below).

Approaches could include the following:

- Subsidize not-for-profit or private sector jobs (for example, through expanded use of on-the-job training vouchers). *limit on subsidy*
- Offer employers other incentives to hire JOBS graduates. *Reauthorize TJTC vouchers*
- Execute performance-based contracts with private firms or not-for-profit organizations to place WORK program participants in unsubsidized jobs. *DFSCME. better Amer. Works*
- Create positions in public sector agencies.
- Support microenterprise and self-employment efforts.
- Set up community service projects employing welfare recipients as, for example, health aides in clinics located in underserved communities. *No limit on public jobs?*

5. Coordination

- (a) States would be required to coordinate the WORK program with other employment programs, including the Employment Service, One-Stop Shopping and School-to-Work, as well as with the efforts of the Corporation for National and Community Service.

6. Retention Requirements

- (a) A private sector employer of a WORK program participant would be expected to retain the participant once the wage subsidy ended, unless the employer could demonstrate that the individual was performing unsatisfactorily. States would be required, in developing contracts with employers to subsidize positions, to include provisions for retaining the WORK program participant after the subsidy ends. *NO*

7. Non-displacement

- (a) Non-displacement language would be based on current law (Section 484(c), Social Security Act), except that WORK program participants could be placed in unfilled vacancies not created by layoffs (H.R. 11 would have eliminated the restriction on placing Work Supplementation participants in unfilled vacancies).

ISSUE: Should non-displacement language be based on the stronger wording found in the National and Community Service Trust Act (which prohibits participants from engaging in activities that would supplant the hiring of employed workers)?

8. Number of WORK Assignments

- (a) Each State would be required to provide at least a minimum number of WORK assignments.
- (b) The minimum number of WORK assignments for each State would be set by the Secretary, calculated by dividing the amount of Federal funding allocated to the State by a fixed cost per WORK assignment, which would be set at the Federal level. The cost per WORK assignment figure would be equal to the annual wages payable for a 20 hour per week, minimum wage job plus an allocation for administrative costs. The administrative allocation would represent the expense of creating and maintaining the WORK assignment.

EXAMPLE: A State receives \$750,000 in Federal WORK program funding and the State match is 25%, for a total of \$1,000,000 in WORK program funding. The administrative cost figure is \$2,000 per position and the annual wages for a 20-hour per week minimum wage job are roughly \$4,200, for a total figure of \$6,200 per position. A State would be expected to provide 160 (\$1,000,000/\$6,200) WORK assignments at any point in time.

- (c) States would be encouraged to generate additional WORK assignments beyond the minimum number, but available Federal matching funds would be capped. The Federal government would provide technical assistance to States to help them generate more WORK assignments than the minimum number through cost-effective expenditure of WORK program funds.
- (d) In the event that a State failed to provide the minimum number of WORK positions, the Federal match rate for that State would be reduced to 50 percent, unless the minimum number of WORK positions exceeded the number of persons subject to the work requirement.
- (e) A certain percentage (e.g., 5%) of WORK assignments would be reserved for noncustodial parents who were in arrears on child support.

9. Allocation of WORK Assignments/Waiting List

- (a) If the number of persons who were eligible and applied for WORK positions exceeded the number of WORK assignments available at that point, States would be required to allocate WORK assignments either on a first-come, first-served basis or according to a priority system and to maintain a list of persons awaiting a WORK assignment.
- (b) The IV-A agency would maintain the waiting list, even in localities in which it did not administer the WORK program.

separate decisions

- (c) States employing a priority system would be required to establish a uniform set of rules by which the priority system would operate and inform all persons on the waiting list of these rules.
- (d) An individual awaiting a WORK assignment would be eligible for cash benefits provided he or she found volunteer work in the community for at least 20 hours per week. This volunteer work would be distinct from a WORK assignment. The recipient would be wholly responsible for arranging the place(s) and hours, and would not receive wages for hours worked. The cash assistance check would continue to be treated as benefits rather than earnings for all purposes.

ISSUE: Should persons on the waiting list be required to perform self-initiated community service?

ISSUE: Should there be a minimum number of hours for self-initiated volunteer work (as opposed to, for example, a requirement that the individual volunteer for at least two days per week)?

- (e) The State IV-A agency would be required to establish procedures, subject to the approval of the Secretary, for verifying the volunteer arrangements for persons on the waiting list.

ISSUE: If there is a minimum number of hours for volunteer work, should the IV-A agency be required to monitor the number of hours (in which case the organization for which the individual was volunteering would have to record the number of hours)?

- (f) The Federal match rate for cash benefits paid to recipients on the waiting list would be equal to the Federal Medicaid Assistance Percentage (FMAP) minus ten points.

ISSUE: Should States be required to absorb a greater share of the cost of cash benefits for those on the waiting list?

- (g) The entity operating the WORK program would be required to maintain regular contact with persons on the waiting list for a WORK assignment. Recipients on the waiting list would be required to engage in concurrent job search.

#### 10. Time Limit on Participation in the WORK Program

ISSUE: Should there be a time limit on participation in the WORK program? Should there be a time limit on individual WORK assignments? Should there be time limits on both individual WORK assignments and the overall stay in the WORK program?

EXAMPLE: Individuals would be limited to a maximum of 9 months in any single WORK assignment, after which they would be placed on the waiting list for a new WORK position and would be expected to perform 20 hours of self-initiated community service per week in order to receive benefits.

EXAMPLE: Same as above, except that States would have the option of reducing the cash benefits of recipients who had spent a total of at least 18 months in WORK assignments and were on the waiting list for a new WORK assignment. States would be permitted to reduce the cash benefit by up to 20 percent, provided that the combined value of AFDC, food stamps and housing assistance did not fall below 80 percent of the poverty line.

#### 11. Eligibility Criteria and Application Procedure

- (a) Persons who had reached the time limit for cash assistance would be eligible for a WORK assignment.
- (b) An individual who had left the WORK program but had not earned back any months of cash assistance would be permitted to re-enroll in the WORK program, provided he or she did not quit a private sector job without good cause.

EXAMPLE: A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after 11 months, before earning back any months of cash assistance (an individual would have to stay out of the JOBS and WORK programs for at least a year to begin earning back assistance; see Time-Limited Assistance specifications). This person would be eligible for a WORK assignment.

- (c) States would be mandated to establish a simple application procedure for WORK positions which insured that all individuals enrolling in the WORK program understood the terms and conditions of participation.

#### 12. Wages and Benefits

- (a) Participants in WORK assignments would be compensated for hours worked at no less than the higher of the Federal minimum wage and any applicable State or local minimum wage law. States would have the option to provide WORK assignments which pay an hourly wage higher than the minimum wage.
- (b) States would be required to supplement earnings from WORK positions with cash assistance if net income from the WORK assignment were not equal to a cash benefit for a family of that size with no earned income. States would have the option to calculate benefits for persons in the WORK program without applying some or all of the disregards (e.g., thirty and one-third).
- (c) Wages from WORK assignments would be treated as earned income with respect to Worker's Compensation, FICA and Federal assistance programs (e.g., food stamps, public and Section 8 housing).
- (d) Earnings from WORK positions would not be included in Aggregate Gross Income, and consequently would not be treated as earned income for the purpose of the Earned Income Tax Credit.

- (e) All child support collected, notwithstanding arrears, would be paid directly to the WORK program participant.

ISSUE: Should child support collected be paid directly to WORK program participants?

- (f) Wages would be paid in the form of weekly or bi-weekly checks. In instances in which an individual was receiving both wages and cash benefits (see above) there would be separate checks for wages and for welfare benefits, regardless of the entity issuing the check for hours worked (i.e., even if the IV-A agency were responsible for both paying wages and disbursing supplementary benefits, the two would not be combined into one check).

### 13. Hours of Work

- (a) States would have the flexibility to determine the number of hours for each WORK assignment, which could vary depending on the nature of the position. WORK assignments would have to be for a minimum of 15 hours per week or 65 hours per month, whichever is greater, and for no more than 35 hours per week or 150 hours per month, whichever is greater.

ISSUE: What should the minimum number of hours be (elsewhere in the document, part-time work is defined as 20 hours per week; using 15 here might seem odd)?

### 14. Sanctions

- (a) WORK program participants would receive wages for hours worked. Failure to work the set number of hours for a WORK assignment would result in a corresponding loss in earnings. Cash assistance would not act to offset the drop in WORK program earnings, for either WORK program participants who were already receiving supplemental cash benefits or for participants for whom the reduction in income would otherwise have made them eligible for cash assistance. The loss in wages would be treated as a decline in earned income with respect to other assistance programs.

- (b) A WORK program participant who repeatedly failed to show up for work or whose performance was otherwise unsatisfactory could be fired.

(1) An individual who was fired from a WORK assignment for the first time would be placed at the end of the waiting list for WORK assignments and would have to perform community service for 20 hours per week to receive benefits.

(2) A person fired from WORK assignment for a second time would be placed on the waiting list only after 6 months. During that six-month period, the individual would not be eligible for cash benefits.

- (3) Persons fired for a third time would not be able to enter the waiting list or receive cash benefits for a period of one year. This one year would not be counted as time not in the WORK program for purposes of earning back eligibility for transitional assistance.

ISSUE: Should persons fired from WORK assignments be eligible for new WORK assignments?

- (c) Persons subject to the work requirement who were not eligible for cash benefits due to sanction would still be able to receive food stamps, Medicaid and other in-kind assistance.
- (d) An individual otherwise eligible for the WORK program who refuses an offer of unsubsidized private sector employment without good cause would not be eligible for a WORK assignment for six months from the date of refusal. Cash benefits during this six-month period would be calculated as if the job offer had been accepted. When calculating benefits for families so sanctioned, the disregards would apply. The sanction would end upon acceptance of a private sector job. WORK program participants are permitted to refuse a job offer if accepting the offer would result in a net loss of cash income (as under current law, CFR 250.35, Section 402(a), Social Security Act).

#### 15. Work Place Rules

Providers of WORK assignments, whether public, private or non-profit, would be required to treat WORK program participants as other entry-level employees with respect to sick and annual leave and other workplace rules. A State would have the option to waive this requirement for specific employers of WORK program participants, provided that the employer complied with all applicable Federal and State laws concerning workplace rules.

#### 16. Job Search

WORK program participants would be required to engage in job search either continuously (e.g., 8 hours per week) or periodically (e.g., for one week every 3 months or immediately after completing a WORK assignment). As discussed above, recipients on a waiting list for WORK assignments would be required to engage in continuous job search. The required number of hours of job search for both persons in WORK assignments and on the waiting list would be set by the State.

#### 17. Supportive Services

States would be required to guarantee child care for any person who is either in a WORK assignment or is on the waiting list for a WORK assignment and is volunteering in the community, as with JOBS program participants under current law (Section 402(g), Social Security Act). States are also mandated to provide payment or reimbursement for transportation and other work-related expenses associated with participation in the WORK program (as with JOBS participants, Section 402(g), Social Security Act).

## 18. Deferrals

- (a) Persons who had reached the two-year time limit and would otherwise be subject to the work requirement (a WORK assignment or self-initiated community service) could, under certain circumstances, be deferred from participation in the WORK program (much as persons would be deferred from the JOBS program).
- (b) Deferred persons would be eligible for cash benefits (not wages), without any requirement to find volunteer work, for as long as the condition necessitating the deferral continued. Once the deferral ended, these persons would enter, or re-enter, the WORK program.

Deferral policy could take one of two forms:

- 1) The criteria for deferral from the WORK program would be specified in statute.
- 2) States would be permitted to defer a certain percentage of persons subject to the work requirement for conditions arising after entry into the WORK program. The maximum percentage deferrable from the WORK program would likely be lower than the percentage deferrable from the JOBS program, given that the situation necessitating the deferral could only have arisen after the individual had reached the two-year time limit.

ISSUE: Should the criteria for deferral from the WORK program be specified, or should States be permitted to defer a percentage of persons subject to the work requirement?

ISSUE: How should persons who do not meet the deferral criteria (e.g., caring for a disabled child) but are still deemed not job-ready by the WORK program be treated? Should intensive services be provided, perhaps by a not-for-profit such as Project Match?

## ECONOMIC DEVELOPMENT

Economic development specifications will be discussed during the next round of meetings, after the first of the year.

ALLOCATION OF WORK PROGRAM FUNDS

The Question:

What is meant by the terms "WORK money" or "WORK funding"? Is it some amount of new money (e.g., \$2 billion) to help States develop the WORK assignments, or is it that new money *and* an amount equal to the benefits that would otherwise be paid to persons in WORK assignments?

The Issues:

The WORK funds will have to be allocated in advance. Accordingly, if WORK money represents both the new money and the benefits,, the Federal government would be block granting to States an amount equal to the benefits for the number of people *we think* will be in WORK assignments during the coming year, not the *actual* number of people in WORK positions during that year.

The two are exactly the same if the number of WORK assignments a State would be expected to create is known in advance. If, however, a State is expected to provide WORK assignments to *some percent* of persons in, for example, their first two years in the WORK program, it would be necessary to estimate the number of people who would be in their first and second years in the WORK program.

Let's say we estimate State A will have, in FY 99, 1000 persons who are in their first or second years in the WORK program. If a State is expected to provide a WORK assignment to 75% of such persons, State A would have to provide 750 assignments. The block grant for State A would then be equal to the product of 750 (or a slightly higher number, to permit a State to provide some WORK assignments for those in the WORK program more than two years) and the average benefit level in the State, plus some amount of money for the cost of developing the WORK assignments. We would then add up the allocations for all the States and set the cap at that level, or somewhere in that area.

What if State A actually wound up with 1200 persons in the WORK program and had to provide 900 WORK assignments? If the capped funding were only adequate to fund, for example, 800 positions, the State would be left with the tab for both the wages and the administrative cost for the 100 extra positions.

To write the capped levels into law as part of the Administration's bill, it would be necessary to estimate the number of WORK assignments needed for the next several years. The capped levels would then be all over the place, particularly during the phase-in period (even estimating the number of assignments for each year of the phase-in period would be a full day's work).

The alternative would be to set the level of the cap annually, in which case it might not be much of a cap. If the number of persons in their first two years in the WORK program rose, the "capped" funding level would rise accordingly.

One solution would be to fix the number of WORK assignments a State would have to create, regardless of the number of people in the WORK program. In other words, in the example above, State A would only be expected to create 800 WORK assignments in FY 1999, even though there

were 1200 persons in their first two years in the WORK program and a 75% participation standard for such persons (which, as mentioned above, would imply 900 positions).

Opting for a minimum number rather than a percentage as the participation standard would give States no incentive to generate additional WORK assignments once that minimum was met, regardless of the number of people in, for example, their first two years in the program. If, however, States face a higher match for benefits to persons who have reached the time limit and who are not in WORK assignments, a State would be left with the choice of paying the full cost, including wages, of the additional WORK assignments or incurring that match rate penalty.

States are not likely to be too happy about any block granting scheme that saddles them with the full cost associated with unanticipated jumps in the caseload or erroneous estimates by HHS.

#### **The Proposal:**

**WORK funds should be defined as only the new money for the cost of setting up the WORK assignments and not both the new money and the amount that would have been paid in benefits.**

Money for operational costs would be capped and distributed according to the average monthly number of JOBS participants subject to the time limit in a State, relative to the number in all States. WORK operating costs would be 100% Federally funded, with no State match—the WORK administrative money would be block-granted to States.

Federal matching money for wages to persons in WORK assignments would not be capped. The Federal government would reimburse States for expenditures on wages at the FMAP, with no limit on Federal matching funds.

Capping only the funding for operational costs would likely make a cap more palatable to States, and moreover the capped levels would not fluctuate quite as widely, in absolute terms, during phase-in (e.g., from \$500 million to \$1 billion to \$2 billion, as opposed to from \$1.5 billion to \$3 billion to \$6 billion).

States would be required to provide positions to some percentage of persons who had been in the WORK program for less than two years or had held fewer than two WORK assignments. States would face a higher match rate for benefits to persons who had reached the time limit and were not in WORK assignments.

Let's say, as in the example on the previous page, operational funding is sufficient for 800 assignments, but the State actually has to provide 900. The State would have to pick up the full administrative cost of developing the additional 100 positions, but the Federal government and the State would share the cost of wages for these 100 extra assignments. The State would still be left holding the bag to some extent, but it would be a smaller bag.

Another possibility, mentioned above, would be to require States to provide a minimum number of WORK assignments, rather than to serve a percentage of persons in their first two years in the WORK program. The number could be calculated by dividing the State's allocation of WORK

operational money by an operating cost per WORK assignment figure. States would then not be confronted with what would effectively be an unfunded mandate to generate additional WORK assignments. The disadvantage, as noted previously, is the relative lack of incentive to generate assignments above the minimum number, regardless of the number of people awaiting assignments (and the State still faces the match rate penalty for persons not in WORK assignments).

Either way, WORK program wages would still be replacing AFDC benefits on basically a one-to-one basis, so wages would not represent any additional cost, but we would avoid the messy business of trying to estimate in advance the amount that would have been paid in benefits and block granting that sum.

States would still have the flexibility to expend WORK administrative dollars on a wide range of strategies (e.g., performance-based placement contracts with America Works-type entities). There would be few WORK assignments available for persons who had been in the WORK program for over two years and States would have to pay a higher match rate for benefits to persons not in WORK assignments. Consequently, States would have a legitimate incentive to pursue strategies that would move WORK participants into unsubsidized employment as rapidly as possible. The more persons a State placed into unsubsidized jobs, the smaller the denominator for the participation standard calculation, and the smaller number of WORK assignments the State would have to create.

If a State were required to create a minimum number of WORK assignments rather than provide assignments to a percentage of short-term WORK participants, however, there would be a disincentive to pursue strategies such as performance-based placement contracts, for fear of not generating the minimum number of actual assignments (there are fairly compelling reasons not to count placements into unsubsidized private sector jobs as WORK assignments; see WORK specifications).

One solution would be to set the minimum number of WORK assignments such that the State could meet the requirement and still have WORK money available for job search assistance and for other strategies. The higher match rate for persons who had reached the time limit and were not in WORK assignments would serve as an incentive for States to find the most effective means of moving individuals from the WORK program into unsubsidized employment.

DAVID

## WORK Program

### Key Elements:

### Work and Pay:

1. Work for Wages: Persons are paid an hourly wage rate, set by the state, not less than minimum wage. Hours are set by the state, minimum 15 hours, maximum 35.
2. Supplementary AFDC and Food-Stamp benefits calculated according to existing state law on a 3 month prospective basis, assuming the person does in fact work the hours required, at the wage set.
3. Maximum of 12 (18?) months subsidized work in each assignment. States are encouraged to find placements what will lead to unsubsidized work at the same establishment after the initial placement.
4. Persons in subsidized WORK assignments do not collect the EITC *private sector*
5. Persons who become temporarily ill or face a new major new temporary impediment to work such that their pay is likely to fall significantly may apply for temporary deferral status and then collect equivalent some additional benefits during the period. Persons in this status count against the limit on pre-JOBS / deferrals *why?*
6. Persons whose status changes permanently may apply to be placed in Pre-JOBS program, but they cannot requalify for JOBS unless they have earned added credits by being off of welfare.
7. Child care to be determined.

### Administration

1. States are required to have WORK advisory panel with membership from Labor, Business, Community Organizations, etc. The advisory panel must approve the WORK plan.
2. States submit a WORK plan to feds.
3. States are reimbursed as follows:
  - For each WORK placement:
    - flat amount for administrative costs
    - expected earnings (hours times wage) reimbursed according to standard AFDC match
    - any supplementary AFDC and Food Stamps as per current law

States are not expected to track actual expenses or costs of wages for each placement thus states may use the monies to subsidize work and create jobs in any fashion they choose

Block Grant?

4. National Service displacement Language including labor veto over placements in existing bargaining unit positions

WORK

Vision

Some welfare recipients will reach the end of their time limit for receiving cash assistance without having obtained a job in the private sector, even despite their and the system's best efforts. These recipients must have the opportunity to support themselves and their families. At the same time, it is reasonable to expect work in return for support. The WORK program will make the expectation of work real, by providing opportunities to work.

We have very little experience to build on in providing work opportunities for the population of welfare recipients that is likely to reach the time limit. For this reason, and because of the diversity of local situations and client populations, it is important that the program be designed in a very flexible way, with the opportunity for planning, demonstration, and ongoing assessment and modification. Several principles, however, are very important: adequate work opportunities for all who are past the time limit, a preference for private sector work over public, a preference for work for wages over work for welfare benefits, and non-displacement of current workers.

Program Timing

Assumes October 1994 passage of welfare legislation; demonstration authority for secretary to give grants for demonstration projects; one year planning period (preferably with implementation grants) for all states before first program participants hit the time limit. Assumes a seven year authorization period for the legislation; with required reporting by the Secretary eighteen months before the expiration date.

July 1995: First states implement TAP for applicants and recipients born after 1970

July 1995: Selected states begin implementing demonstration WORK program for volunteers or selected subpopulations

July 1996: Early states begin implementation planning for WORK program

October 1996: All states required to implement TAP for applicants and recipients born after 1970

January 1997: Second Clinton administration begins

July 1997: First recipients hit time limits in early

implementing states

October 1997: Last states begin implementation planning for WORK program

October 1998: First program participants hit time limit in late implementing states

December 1999: A maximum of 230,000 participants are enrolled in the WORK program (if all states implemented October 1995)

April 2000: Secretary submits required reports on implementation of the legislation and suggested revisions

January 2001: First Gore administration begins

October 2001: Authorizing legislation expires

February 2002: Mary Jo reaches age 60, retires to the Maine woods, and applies for LIHEAP benefits.

Targetting on young applicants and recipients ensures that the numbers of program participants hitting the time limit will be quite modest even five years after implementation. Early establishment of demonstrations will enable some knowledge to be gained before required participants hit the time limit, at least on implementation and design issues. Establishing a defined planning period for states will focus their attention before that time on the JOBS program, but will also encourage them to devote serious attention to designing the WORK program. A defined authorization period ensures assessment of the legislation and revision if necessary, before the program reaches an unmanageable scale.

#### Program Design

- o By two years after the date of state implementation of the TAP program, states must have in place a WORK program of sufficient scale to serve all program participants who hit the time limit but are unable to obtain work in the private sector.
- o The program must have an administrative and governing structure that is certified by the governor to:
  - ensure accountability for serving eligible recipients;
  - ensure smooth coordination with and handoff from

the JOBS program;

- ensure coordination with other workforce development programs in the state;
- ensure participation in policy decisions by the business community, labor unions and recipients.

The IV-A agency will be assumed to be the administration entity for the WORK program as well as the JOBS program unless a waiver is specifically requested by the governor. In states designated for One-Stop Career Centers, the WORK program will be a member of the State Human Resource Investment Council, which will facilitate coordination at the local level.

- o The program will be funded through a capped entitlement allocated to the states on the same basis as JOBS funds. States will be reimbursed for x percent of WORK program expenditures (same as JOBS matching rate) up to the cap. Wages and/or benefits to WORK program participants will be reimbursed at the AFDC benefit matching rate. States may choose to receive a block grant of funds for the WORK program which covers either program operation only or program operation plus estimated wage/benefit costs. The secretary will study the potential effects of other reimbursement systems, including various kinds of incentive systems, and report to the Congress on her findings one year before the expiration of the legislation.

ISSUE: AMOUNT OF THE CAPPED ENTITLEMENT. IT SHOULD PROBABLY BE BASED ON PREDICTIONS OF THE NUMBER OF PEOPLE WHO WILL HIT THE TIME LIMIT IN VARIOUS YEARS ASSUMING NO BEHAVIORAL EFFECTS OF THE PROGRAM, TIMES AN ESTIMATED REASONABLE COST PER SLOT, PERHAPS WITH A SMALL CUSHION. THIS WILL PUT AN EFFECTIVE CAP ON THE NUMBER OF PEOPLE WHO WILL BE SERVED WITHOUT ESTIMATING OR ALLOCATING A SPECIFIC NUMBER OF SLOTS. AN ALTERNATIVE WOULD BE TO LIMIT THE NUMBER OF SLOTS AS WELL, BUT THIS COULD BE SEEN AS IN CONFLICT WITH A COMMITMENT TO SERVE EVERYONE.

- o States may provide work opportunities for participants through the following mechanisms: work supplementation to private sector employers; public work slots paying wages for hours worked; community services slots with work a condition of receiving benefits. During the authorization period of this legislation, states may establish their slots in any combination they wish. Work for wages will be encouraged; some funds might be reserved to the secretary to provide incentives for establishing work for wages slots. The secretary will publish guidelines and information on model programs

for administering work for wages programs and ensuring the protection of workers. The secretary will fund demonstrations of programs which use the WORK agency as the employer. As a result of study and analysis, the secretary may recommend limitations on different types of slots for the next authorization period.

- o States must certify that work opportunities provided through the WORK program do not displace other workers. (INSERT WHATEVER LANGUAGE WE NEED HERE.)

good

### Responsibilities of States and Recipients

- o States must provide a work opportunity for everyone who is eligible. The secretary will collect data on the demand for multiple placements, study alternatives to providing multiple slots, and make recommendations for the reauthorization.

ISSUE: SHOULD STATES ONLY BE REQUIRED TO PROVIDE ONE WORK OPPORTUNITY, RATHER THAN MULTIPLE OPPORTUNITIES? ALTERNATIVES: NO BENEFITS; RETURN TO JOBS PROGRAM; BENEFITS WITHOUT RESPONSIBILITIES. OUR FOCUS STRATEGY MAKES THE PROVISION OF MULTIPLE SLOTS QUITE FEASIBLE WITHIN THE AUTHORIZATION PERIOD.

- o Work opportunities must be for a fixed number of hours between 10 and 35 per week. The pay or benefits associated with the work hours must be at least equal to the number of work hours times the minimum wage.
- o If the pay or benefits provided by the work opportunity is less than the AFDC benefits that the person would be eligible for if she were not working, the state must supplement those benefits by treating WORK pay or benefits as income for the purposes of AFDC eligibility, assuming that the pay received is the pay associated with the number of required hours. (If you don't work and don't get paid, your benefits don't go up.) The costs of child care must be disregarded in making this calculation.

?

ISSUE: IS THIS THE RIGHT WAY TO THINK ABOUT THIS? THE ALTERNATIVES ARE TO MAKE STATES PROVIDE WORK HOURS AND/OR WAGES ASSOCIATED WITH WORK OPPORTUNITIES SUFFICIENT TO ENSURE A LEVEL OF SUPPORT EQUAL TO THAT OF AFDC RECIPIENTS WHO DON'T WORK; OR TO ALLOW RECIPIENTS, ESPECIALLY IN HIGH BENEFIT STATES TO BE WORSE OFF IN THE WORK PROGRAM THAN THEY WOULD HAVE BEEN ON AFDC.

?

- o Child care subsidies must be made available to WORK participants who are not eligible for supplemental AFDC benefits. Subsidies may be substituted for disregards.

- o Placements in any one WORK slot will be limited to one year, at state option up to two years. States must require a period of private sector job search between WORK assignments of up to eight weeks. WORK participants receive benefits equal to AFDC benefits during job search periods. *good*
- o Participants in the WORK program may not claim the EITC for pay or benefits they receive while in the program. (I'M ASSUMING THAT PEOPLE IN PRIVATE UNSUBSIDIZED JOBS ARE NOT IN THE WORK PROGRAM.)

## A WORK PROGRAM

**DEFINITIONS:** The term "WORK assignments" refers only to work-for-wages positions. "WORK participants" are defined as all persons who have reached the time limit and are subject to the work requirement, including both persons in WORK assignments and those in community work experience programs (see below).

### Structure of the Program

- Work-for-wages would be the model for the WORK program. States would be given the option of enrolling up to 20% of WORK program participants in CWEP, rather than in WORK assignments.
- States would be required to assign ultimate responsibility for the WORK program to the IV-A agency, but the IV-A agency would have complete latitude to subcontract some or all WORK program services out to, for example, the local JTPA administrative entity. States might be required to submit the JOBS, WORK and JTPA plans jointly to encourage coordination.
- CWEP placements could be in the public or non-profit sectors only.
- States would have the option of enrolling WORK participants in CWEP, with a \$100 per month work stipend in addition to the standard cash benefit. There would be no limit on the percentage of WORK participants States could enroll in "CWEP with a work bonus" positions. (?)
- Strong public sector anti-displacement provisions, developed in conjunction with the public sector unions, would be put in place.
- Certain provisions concerning the WORK program (e.g., the percentage cap on the number of persons in CWEP) could not be waived.

### Why?

Offering States the option of CWEP as an alternative to, rather than in addition to, the work-for-wages model, would be a dangerous gamble.

A work-for-wages model would not necessarily be substantially more difficult to administer than CWEP. As noted above, State IV-A agencies would be encouraged to subcontract those functions which they are not best suited to perform (e.g., placing persons in private sector, OJT-type WORK assignments) out to the JTPA program or other entities. States, however, have experience in operating CWEP, albeit on a much smaller scale, whereas work-for-wages is a untested concept. Many States might consequently be tempted to go with the devil they know, without giving work-for-wages serious consideration.

While it may not be possible to move large numbers of participants out of the WORK program and into unsubsidized private sector jobs even under a work-for-wages model, a work-for-wages model is more consistent with a private sector focus, not to mention with providing meaningful work. CWEP

participants, with their widely varying and uneven hours of work, would likely not be very attractive to private employers or particularly suitable for substantive, skill-building positions.

There is some evidence on the impact of CWEP programs on employment and earnings, and it could not be called encouraging. This is a strong argument for dissuading States from pursuing the CWEP route. Moreover, the work-for-wages model would need to be implemented on a fairly wide scale, rather than in a few, not-randomly-selected States, in order to determine if it delivers better results than CWEP.

Finally, one of the most salient differences between the Administration's plan as it currently stands and the House and Senate Republican bills is the choice of work-for-wages over CWEP. We need to consider the political as well as the programmatic effects of permitting States to opt for CWEP exclusively.

### Hours, Wages and Supportive Services

- WORK assignments would be for a minimum of 15 and a maximum of 35 hours per week and would have to pay at least the minimum wage (more at State option).
- The hours for persons in CWEP would be calculated by dividing the cash benefit by the minimum wage. The amount of any child support orders would be deducted from the benefit for the purpose of calculating required CWEP hours. The 15-hour minimum would apply only to WORK assignments, not to CWEP participation.
- The earnings disregard for WORK assignments would be a flat \$120 per month. WORK wages would count as earned income for most purposes except for calculation of the EITC. Child support would be treated just as it would for any other family with earnings.
- Benefits paid to CWEP participants would be treated as benefits rather than earnings for all purposes.
- States would be required to guarantee child care and/or other supportive services if needed for participation in the WORK program.

### Private Employers

- Retention language similar to that found in the WORK specifications (and the JTPA statute) would be adopted--private, for-profit employers who demonstrated a pattern of failing to retain WORK participants would be excluded from the program. ok
- The WORK program subsidy for a WORK assignment in a private, for-profit firm would be limited to 50 percent of the wages paid to the participant. / why?

### Why?

Both of the above provisions are intended to serve as protections against recycling of WORK participants by employers. While there is not currently such a limit on the work supplementation

wage subsidy, work supplementation is not, to put it mildly, extensively used. The WORK program will be on a much larger scale and under much greater scrutiny, with a correspondingly greater risk of abuses and scandals.

Moreover, staff from the Department of Labor expressed skepticism about the marginal value of increasing the subsidy above 50 percent, particularly given that WORK program subsidies already have the advantage of extending for up to 12 months, as opposed to 6 months for JTPA OJT.

#### Length of Participation/Number of WORK Assignments

- WORK program participants would in general be limited to either two WORK assignments (one at State option) or 24 months in the WORK program (12 at State option), whichever is shorter. The 24-month limit would apply to participation in CWEP as well. *excellent*
- States would be required to provide WORK assignments (or CWEP placements) to a high percentage (e.g., 65%) of those who had not yet held two WORK assignments or spent two years in the WORK program.
- The total number of WORK assignments (nationwide) would be limited to 300,000. *good*
- States would be required to re-assess WORK participants at the two-year/two-assignment mark to determine if more time in the WORK program would be appropriate, or if other services might be in order. In instances in which other services were needed, individuals could be referred back to the JOBS program.
- Persons re-evaluated and sent back to the JOBS program would be eligible for cash benefits, without a time limit. If the State subsequently determined that a person in this category would benefit from another WORK assignment, he or she could be sent back to the WORK program. *? No*

#### Why?

For the time limit to be more than a semantic exercise, a recipient reaching the time limit would need to know that he or she will be going to a WORK assignment very shortly and will not be placed on a waiting list indefinitely. If the time limit means only that benefit checks are sent out under a different program name, with perhaps a few additional toothless requirements (e.g., unmonitored self-initiated community service) imposed, we cannot expect any change in the philosophy of either recipients or welfare offices to result.

On the other hand, guaranteeing a WORK assignment to everyone reaching the time limit, which would be the other way of ensuring a WORK assignment for those just hitting the wall, could be prohibitively expensive.

It would be difficult if not impossible to cap the funding for such a WORK program. While our cost estimates have presumed a WORK assignment for everyone reaching the time limit, they have also presumed substantial caseload reductions which may or may not be accepted by CBO. Moreover, CBO's current model predicts that the marginal cost of work slots, not including child care, rises with

the number of persons in the program (i.e., enrolling the 300,000th person would cost \$2,700 per year, while enrolling the 1,000,000th would cost \$5,400 per year). Consequently, CBO might score phenomenal costs for an open-ended WORK program (including a full-participation CWEP model).

Limiting participation in the WORK program to two years/two WORK assignments would effectively cap the size and cost of the program in the steady state (even in the absence of a cap on the number of WORK assignments). As noted above, some persons could be required to take part in the WORK program for a longer period, when appropriate.

#### Phase-In

- Phase-in the time limit and the WORK program slowly, beginning with applicants and recipients age 24 and under and increasing by one-year age increments each year thereafter.
- The Secretary of HHS would be required to make a report to Congress at the 4 or 5-year point (e.g., FY 2000) on the implementation of the new program, including impacts and the characteristics of the persons subject to the new rules who had been in the system continuously since the phase-in.
- The Secretary would also be required to make recommendations as to any changes or shifts of direction needed.
- The new program, including both the time limit and the WORK program, would have to be reauthorized after 8-10 years.

#### Why?

A slower phase-in strategy would not only keep costs down during the five-year budget window but would also provide adequate time to evaluate the effect of the new program before expanding it to the entire caseload.

But does a slow phase-in constitute changing welfare as we know it?

A strong argument could be made that by beginning with applicants and recipients 24 and under, the Administration would be immediately changing welfare for the most critical population, younger recipients and especially younger applicants who are at the greatest risk of long-term welfare receipt. The Administration's bill would be reaching this population more rapidly than does the House Republican bill, which does not phase-in current recipients, including those under 25 at present, until 1999.

Another argument in favor of a phase-in beginning with those 24 and under is that these most at-risk recipients might get lost during a more rapid phase-in; focusing on younger recipients first is the best bet for success with this essential subgroup.

The Administration would make the commitment in the bill to sensibly expand to the rest of the caseload as rapidly as resources allow, with the benefit of the knowledge picked up during the early years of the phase-in.

**Funding**

- WORK money would be defined as only the new money needed to set up WORK assignments. This funding would be capped and would be distributed to States according to the number of persons in the JOBS program subject to the time limit in the State, relative to the number in all States.
- Federal money for wages to persons in WORK assignments would not be capped. The Federal government would reimburse States for wages to persons in WORK assignments, with no limit on Federal matching funds (as noted above, however, the total number of WORK assignments would be capped).
- The Federal match rate for wages would be structured so as to encourage (high-benefit) States to make their WORK assignments 15-20 hours per week, as opposed to 30-35.
- States would face a higher match rate for benefits to persons who had reached the time limit and were not in a WORK assignment. *good*

[see piece on Allocation of WORK Program Funds for further discussion of funding issues]

Issue Paper: WORK PROGRAM FUNDING

Key Questions:

- What is meant by the terms "WORK funding" or "WORK money?"
- How should WORK funding be allocated?
- How much flexibility should States be given in the spending of WORK dollars?

For example, a State receives \$10 million in WORK dollars. Does that \$10 million represent the money for WORK wages and for WORK operational costs, or just for the latter? What can the State do with that sum? Is the State required to spend all of the money on WORK assignments? Is it required to spend any of the money on WORK positions, or could all of the funds be devoted to performance-based placement contracts, job search workshops, microenterprise activities and other strategies to move persons from the WORK program to work?

Would persons who, for example, had been referred to a placement contractor be eligible for cash benefits while awaiting placement? What about individuals enrolled in job search or in the very early stages of starting their own microenterprises (i.e., before any revenue has come in)? Would such cash benefits come out of WORK money or from AFDC (or the successor program) funds?

What if a State, due to a lack of matching funds, administrative difficulties or a preference for other strategies, generated very few WORK assignments? Could the State simply continue to pay AFDC or the equivalent benefits to most of those in the WORK program?

*A Preferred Allocation Strategy*

Money for the cost of operating the program would be capped and distributed according to the number of persons in the State subject to the time limit (i.e., those required to participate in JOBS). The State match for WORK administrative funding would be set at least the JOBS match rate and perhaps higher. States would be reimbursed for wages at the FMAP, with no limit on Federal matching funds. Persons in the WORK program but not in WORK assignments would be eligible for cash benefits, which would also be reimbursed at the FMAP.

Why?

The Federal match rate for WORK wages could be set higher than the FMAP, to encourage States to generate WORK assignments rather than lengthy waiting lists. Conversely, the match rate for persons who were awaiting WORK assignments could be set lower than the FMAP, to achieve the same end. Both match rates could decrease with the length of time persons had spent in the WORK program, to give States an incentive to move WORK participants into unsubsidized employment as rapidly as possible.

The distinction between the administrative money and the wage money would have to be made in any event for match rate purposes, since the Federal match for WORK administrative dollars would likely be higher than the Federal match for WORK wages (much as the JOBS match rate is higher than the FMAP). The cap on WORK money could be set relatively painlessly, since wages and cash benefits would not have to be paid out of the capped WORK allocation. If the capped WORK allocation

included funds for wages and cash benefits and the cap were set too low, a State would be left with insufficient funds to provide income support to persons in the WORK program (see below).

Under this arrangement, wages for persons in WORK assignments would essentially be the money that would otherwise have been paid in AFDC benefits to such persons. The Department, however, would avoid the arduous and messy business of trying to estimate in advance the amount that would have been paid in benefits to such persons, and States would not be left holding the bag in the event of flawed projections (see below).

There is still the question of how, if WORK administrative funding were capped, States with higher than average per participant operational costs would be reimbursed adequately for such expenditures.

States would, under this structure, still have the flexibility to spend the WORK *operational funding* on a range of activities, including job search assistance and performance-based placement contracts.

It should be noted that the method by which the Federal government reimburses States is quite separate from the mechanism by which a State channels funds to private employers or placement contractors. A State could choose to make the wage subsidy payments to employers of WORK participants on a monthly basis or in a lump sum at the outset of a WORK assignment, or by some combination of the two methods. Similarly, a State could pay placement contractors a percentage of the fee at the outset and the remainder upon placement, or the entire fee upon placement. Regardless of the method by which the State transferred dollars to WORK employers, the Federal government would reimburse the State for wages at the FMAP (or a higher rate), and for administrative spending at the WORK match rate.

There is still the question of whether a State should be required to spend at least some of its WORK administrative money on generating WORK assignments, or whether a State would be permitted, for example, to put all its WORK money into placement contracts and create no WORK assignments.

Perhaps a more salient question is, what if a State devotes most of its WORK funding to generating WORK assignments but due to administrative difficulties or insufficient matching funds, provides very few WORK assignments? Would such a State face any penalty?

States could be required to generate a minimum number of WORK assignments, to ensure that a work requirement would kick in for at least some percentage of persons who had reached the time limit. The minimum number would be based on the State's allocation of WORK funds and would be set such that the State could meet the requirement and still have WORK money available for other strategies designed to move people out of the WORK program and into unsubsidized employment (including self-employment).

Alternatively, States could be required to enroll a certain percentage (e.g., 80-95%) of persons who had not yet reached the reassessment point in WORK assignments, provided WORK administrative funding were sufficient to enable States to provide WORK assignments to such a number of persons.

There are fairly compelling reasons not to count placements into unsubsidized jobs as WORK assignments. It would be difficult to distinguish WORK participants who found, or would have

found, jobs on their own from those whose employment was attributable to State job placement efforts. A State which was especially creative at counting could claim to have provided the minimum number of WORK assignments while still having a lengthy waiting list. What if an individual found a position but lost it two months later? Would it be counted as a WORK assignment for those two months? Monitoring how long persons placed in unsubsidized employment kept such jobs could prove rather difficult.

The allocation strategy described above attempts to afford States considerable flexibility, while ensuring that at least a minimum number of WORK assignments is provided by each State. The intent of the structure is to give States an incentive to move persons out of the WORK program and into unsubsidized employment as rapidly as possible, while minimizing the administrative burden for both the States and the Federal government.

#### *Why Not a Flexible Pool of Wages and Administrative Dollars?*

Another option would be to require States to fund income support for persons who had reached the time limit out of WORK program funds. In other words, WORK money would include both the funding to generate and maintain the WORK assignments and the wages to be paid to persons in WORK assignments—a "flexible pool" of both types of dollars. The amount for wages would be equal to the amount that would have been paid in cash benefits to such persons.

Since WORK dollars would be allocated at the start of the fiscal year, WORK money for a year would be equal to the operational funding plus the amount in benefits that would have been paid to the number of persons *we estimated* would be in the WORK program during the year, not the *actual* number of people in WORK positions during that year.

If WORK funding is capped, an erroneous estimate on the Department's part would be rather problematic. If the Department guessed low, a State would be left with insufficient funds to provide WORK assignments or cash benefits to all who had reached the time limit. The State would then be left to either pick up the tab or deny support to persons who were willing to work.

One solution would be to permit a State, in such an instance, to provide cash benefits out of AFDC (or the equivalent program) money to such persons. A State which, however, generated few WORK assignments, as discussed above, could then pay cash benefits, out of AFDC money, to the large number of persons in the WORK program but not in WORK assignments.

Defining WORK money as both the administrative dollars to set up the WORK assignments and the WORK wages, and capping that total would be tantamount to replacing AFDC, which is an uncapped entitlement, with a capped entitlement for persons who had reached the time limit. States are not likely to welcome such an arrangement, unless the Federal match rate for WORK money is substantially higher than the FMAP or even the JOBS match rate.

This structure would also impose a substantial administrative burden on the Department, which would be required, for each State, to calculate the amount that would have been provided in benefits to persons who were in the WORK program.

Writing the capped WORK funding levels into law as part of the Administration's bill would be particularly challenging, as it would require estimating the number of persons who would be in the WORK program in, for example, fiscal years 1996 through 1999. The level of WORK funding might have to be determined on an annual basis, which would do little to assuage fears of a massively expensive WORK program. If the number of persons in the WORK program rose from year to year, WORK funding would then rise accordingly.

It is not clear what the advantages are to such a block granting scheme. Much the same effect could be achieved by the strategy described above, which distinguishes between money for setting up the WORK assignments and money for WORK program wages.

Key = freedom to  
reallocate wage \$ -  
work supp, etc.

→ Change work supp rules?