

TO:

WR-FLSA

FROM:

SUBJECT: Options on Minimum Wage for Workfare Legislation

Bruce - Diana prepared this memo late last week, on the basis of the agency meeting we conducted a couple of weeks ago. It's new dated, but it might be useful for you to review it before we meet.

As you know, we have been steadfast in our position that welfare recipients engaged in workfare should receive the minimum wage. We oppose the current House proposal, arguing that it would undermine the fundamental goals of welfare reform. Since the House appears poised to pass a reconciliation bill contrary to our position, it is appropriate at this point for you/us to consider whether there are any modifications to current law that we would consider, or whether our opposition is so strong that you would veto any bill with a change to current law on this issue. *in this subject area*

Background: In May, the Department of Labor issued a ruling that the Fair Labor Standards Act (FLSA) applies to welfare recipients in workfare programs, including payment of the minimum wage and labor protections such as occupational safety and anti-discrimination laws. There is an exclusion for trainees, but it is so narrowly drawn that states will probably find it difficult to meet its requirements and still count the activity toward the welfare law's work participation rates.

Initially, it should be comparatively easy for states to comply with the minimum wage requirement, particularly since we are allowing states to count food stamps as well. However, the requirement becomes more difficult over time as the work requirements increase from 20 to 30 hours a week. (Actually, the law allows states to keep the requirement at 20 hours indefinitely by using training to fill the hours from 20 to 30, but this is somewhat difficult from a practical standpoint, and some states have passed laws with tougher requirements.)

For example, only Mississippi's welfare grant is so low that it would have difficulty converting it into 20 hours of a minimum wage payment in 1998, in combination with food stamps, for the average family size of three. In that same year, eight states would fall short of this mark for families of only two. By the year 2000, the number of states with shortfalls grows to 21 for families of three, and to 41 states for families of two.

It is important to note that workfare is hardly the only tool available to states to move people from welfare to work. Workfare should have a limited, transitional role, since private sector jobs are the only way to ensure that those on welfare become truly independent.

Congressional Proposals: The House Republicans have language in their reconciliation bill that would exempt welfare recipients engaged in workfare from the Fair Labor Standards Act or any other federal law, except OSHA. It would

ostensibly require payment of the minimum wage, but would render this meaningless by permitting states to count child care, Medicaid, and housing benefits toward that payment. (The Department of Labor's ruling does allow states to count food stamps, since this is permitted under current law.) We have stated our view that this essentially creates a subminimum wage for workfare participants. Finally, it would also allow states to count additional hours of job search, education, and training toward the welfare law's work requirements. This would be the first weakening of the law's hard-won work requirements, and it would be a substantial weakening.

House Republicans and Democrats are now engaged in negotiations on this issue. They are considering dropping the Republican plan to count other benefits, relying instead on letting states count education and training as work where necessary. The Republicans also appear willing to compromise and extend anti-discrimination laws to those in workfare.

In contrast, the Senate has no FLSA language at this point, but they may simply be recognizing the likelihood that they would have difficulty with the issue on the floor, preferring to let it come up in conference.

If we decide to move from our current position, our alternatives would fall into four key areas.

Option 1: Count benefits other than food stamps toward the minimum wage:

Counting Medicaid, child care, transportation, and/or housing benefits toward the payment of the minimum wage would make it far easier on states, but it would raise a number of other issues. First, since these benefits don't count toward the minimum wage for the working poor, it would effectively create a subminimum wage for those on welfare. Second, it could set a precedent for further erosion of the minimum wage by counting all kinds of other benefits for other low-wage workers. Third, it would make workers on workfare "cheaper" than those who are not, making displacement more likely. Finally, placing a value on these benefits is often very difficult to do, and requires recordkeeping and systems to keep them up-to-date that the states find burdensome.

Each agency offering a benefit feels strongly that that benefit should not count toward the minimum wage. HHS feels very strongly about Medicaid and, especially, child care. HUD argues vigorously against including housing benefits.

Option 2: Allow more activities to count toward the work requirements: This option is probably the one most attractive to the greatest number of parties, but it is a fundamental weakening of the hard-won work requirements in the law. Some may argue that we should embrace this proposal since the Republicans have given us political cover by proposing it themselves. However, to allow the states to

throw the work requirements overboard at the first sign of difficulty is not an auspicious start to implementing this law.

HHS and Labor would not oppose changes in this area.

Option 3: Exempt workfare participants from other labor protections: Although this option does not help states find the money to meet the minimum wage, apparently much of the states' anxiety on this issue is actually focused on labor protections. There seems to be general agreement, even from the Republicans, that OSHA protection and race/sex anti-discrimination statutes should apply. The hazier issues are enforcement of the minimum wage and other labor protections. These include whether individuals should have a private right of action; whether the Labor Department's Wage and Hour Division can bring an action; and whether workfare participants are eligible for unemployment insurance and benefits, overtime, and family and medical leave (what about ADA?). Obviously, it is possible to pick and choose from this list, either by starting with existing law and specifying which protections are excluded, or by saying that existing law does not apply and adding back certain protections.

The Department of Labor feels most strongly that we should not consider changes in this area, particularly in the area of enforcement.

Option 4: Exempt workfare recipients from FICA and the EITC: Treasury still has not ruled whether current law requires payment of FICA taxes and EITC for workfare recipients. These two issues are linked legally so that either both or neither will apply. The IRS is developing two scenarios for release. One outlines what type of state work program would require FICA and EITC payments, while the other explains the type of work program that would not trigger these payments. It seems probable that most states' programs would fall into the first category, making the states extremely unhappy. The IRS is still probably a few weeks away from completing this analysis.

We could agree to legislation specifying that workfare participants are not required to contribute to FICA and are not eligible for the EITC. This would be partially consistent with our 1994 welfare reform bill, which allowed the EITC but did not apply FICA. The logic of doing so is that it keeps private sector jobs more attractive than workfare for individuals, which is a crucial policy goal for us. And not allowing the EITC avoids increasing its identity as a "welfare" program.

Treasury strongly prefers to avoid amending the EITC, because they fear opening the program up to change on the Hill at this time.

tary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

COORDINATION REQUIREMENTS

SEC. 483. [42 U.S.C. 683] (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act¹⁸⁶ and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment.

(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act¹⁸⁷ or Carl D. Perkins Vocational Education Act¹⁸⁸).

PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES

SEC. 484. [42 U.S.C. 684] (a) In assigning participants in the program under this part to any program activity, the State agency shall assure that—

¹⁸⁶See Vol. II, P.L. 97-300.

¹⁸⁷See Vol. II, P.L. 89-750, Title III.

¹⁸⁸See Vol. II, P.L. 88-210.

CWEP

(1) each assignment takes into account the physical capabilities, skills, experience, health and safety, family responsibilities, place of residence of the participant;

(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home to remain away from such home overnight;

(3) individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

(4) the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant and

(5) each assignment is based on available resources and the participant's circumstances, and local employment opportunities.

(b) Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as the protection provided to other individuals in the State in similar employment determined under regulations of the Secretary).

(c) No work assignment under the program shall result in—

(1) the displacement of any currently employed worker from a position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits) or result in the impairment of existing contracts for service under collective bargaining agreements;

(2) the employment or assignment of a participant to fill a position when (A) any other individual is on a waiting list for the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling a vacancy so created with a participant subsidized under the program; or

(3) any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482(e) or (f) to fill any established but unfiled position vacancy.

(d)(1) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

(2) The State shall hear complaints with respect to work conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing procedure. A decision of the State under such process may be appealed to the Secretary of Labor.

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"(c) NONDISCRIMINATION PROVISIONS.—The following provisions of law shall apply to any program or activity which receives funds provided under this part:

"(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(d) ALIENS.—For special rules relating to the treatment of aliens, see section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

42 USC 609.

"SEC. 409. PENALTIES.

"(a) IN GENERAL.—Subject to this section:

"(1) USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

"(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than the applicable percentage of the State family assistance grant.

"(B) APPLICABLE PERCENTAGE DEFINED.—As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State—

"(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

"(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

"(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

"(II) 21 percent.

"(C) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of non-compliance, and may reduce the penalty if the non-compliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(6)) during the fiscal year.

"(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

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Under the new House minimum wage proposal, nearly 6 percent of those required to work could work less than 20 hours per week.

	Families whose TANF and Food Stamp Grant Won't Pay for 20 Hours a Week of Work at the Minimum Wage	Number of Families who could Potentially Work Less than 20 Hours a Week**
Mississippi	All families	38,411
West Virginia	Two person families*	13,000
Texas	Two person families*	87,877
Arkansas	Two person families*	7,881
South Carolina	Two person families*	12,655
Tennessee	Two person families*	26,329
Louisiana	Two person families*	28,294
Alabama	Two person families*	12,864
Total Number of Families with Benefits Too Low to Pay Minimum Wage for 20 Hours per Week		227,311
With 25% Participation Rate, Total Number of Families Who Could Potentially Work Less than 20 Hours per Week		56,827
U.S. Caseload Subject to 25% Participation Rate		1,004,250
Total who Could Potentially Work Less than 20 Hours Compared to Total Required to Work		5.6%

* Nationally, 40% of welfare families have two persons (i.e., one adult and one child). This analysis assumes that that 40% ratio applies to each of these states.

** Latest state data in hand (March 1997) is for recipients. These family numbers were derived from the state recipient numbers by assuming that each state follows national average of having 11.156/4.017 or 2.77 people per family.

When the work requirement rises to 30 hours per week, the benefits in all states except Alaska, HA, VT, CT, NY, NH, CA, RI, MA will fall below the minimum wage for a family of two. For families of three, benefits in 21 states will fall below the minimum wage.

KEY ELEMENTS OF HOUSE FLSA PLAN

I. Enforcement of the Minimum Wage

Current Law	House Proposal	Options (Weakest to strongest)
1. Wage & Hour Division can take action 2. Private right of action	No enforcement mechanism	1. State grievance procedure 2. HHS/TANF penalty (how would Secy. determine?) - <i>pattern of abuse - HHS/DOL oversight</i> 3. CWEP: State hearing; can appeal to DOL 4. Allow Wage and Hour to enforce and/or private right of action 5. Establish as employees

Grievance board

II. Worker Protections

	Current Law	House Proposal	Options
Health and Safety	<ul style="list-style-type: none"> a. OSHA standard b. Duty clause, whistleblower protection c. Enforcement by OSHA inspectors 	<ul style="list-style-type: none"> a. OSHA standard b. No c. Enforcement unclear <i>-state hearing; no appeal</i> 	<ul style="list-style-type: none"> 1. CWEP standard that assignment must consider health and safety 2. Full OSHA protection
Discrimination	<ul style="list-style-type: none"> a. Employment-based rights enforced by EEOC and private right of action <ul style="list-style-type: none"> --Title VII --ADA b. Federal funding-based rights attached to TANF <ul style="list-style-type: none"> --Title VI (<i>race & religion</i>) --ADA --Section 504 (<i>disabled</i>) --Age Disc Act c. Enforced by EEOC, private right of action, or withdrawal of Fed \$ 	<ul style="list-style-type: none"> a. No, because presumably not employees b. Same as TANF, plus prohibits <u>gender</u> (<i>sex</i>) discrimination (Note no underlying law with enforcement mechanism attached) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Would <u>not</u> apply to non-profits not receiving federal funds</p> </div> c. State process, hearing; Shall be remedies which <u>may</u> include: <ul style="list-style-type: none"> --no more placements --get job/wages back --equitable relief 	<ul style="list-style-type: none"> 1. CWEP standard: no discrimination and participants have such rights as are available under any applicable Federal, state, or local law 2. Pick among employment-based rights? 3. Coverage by employment-based rights even though not employees 4. Establish as employees 5. Establish that federal funding-based rights apply to non-profits 6. <i>Penalty to state</i>

but not enforcement

*- no federal rt of action
- no penalty on states*

Workers' Compensation	Full coverage?	Nothing	<ol style="list-style-type: none">1. CWEP standard: protection on same basis as others in state in similar employment2. Full coverage
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III. Displacement

Can a participant in the program cause...	HR1385/ House Ed & Workforce	JTPA	TANF	House (applies to TANF)	Senate (applies to \$3b)
the replacement of a worker who is fired or laid off?	No	No	No	No	No
reduced hours, wages, or benefits to a currently employed worker? (Partial displacement)	No	No	Yes	Yes	No
violation of a collective bargaining agreement?	No	No	Yes	No	No
impairment of a collective bargaining agreement or contracts for services?	No	No	Yes	Yes	No
inconsistency with a collective bargaining agreement?	No	Yes	Yes	Yes	No
infringement on promotional opportunities?	No	No	Yes	Yes	No

Options:

- Partial displacement
- Strengthen House to include "impair" collective bargaining agreement
- Full HR 1385

Displacement Grievance Procedures

	TANF	HR1385, Ed/Wkforce, Senate	House	Options
Process	Undefined state process	<ul style="list-style-type: none"> a. Opportunity for a state hearing within 60 days b. Can appeal negative decision or inaction to DOL c. DOL action within 120 days 	<ul style="list-style-type: none"> a. State process b. Hearing 	<ul style="list-style-type: none"> 1. Action by a time certain 2. Lose TANF \$ 3. DOL appeal (like CWEP) 4. HR 1385
Remedies	None	<ul style="list-style-type: none"> a. Lose TANF \$ b. No more placements c. get job/wages back d. equitable relief 	Shall be remedies, which <u>may</u> include: <ul style="list-style-type: none"> a. no more placements b. get job/wages back c. equitable relief 	

WRC

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DLC's OK on FISA, but

F-LSA

Visit the DLC-PPI Web site for more not Texas.

information on welfare policy:

<http://www.dlcpqi.org/>

- BR

Democratic Leadership Council

Thursday, May 29, 1997

Welfare To Work: Eyes on the Prize

st year's landmark federal welfare reform legislation may have ended the old welfare system, but it left to the states the critical task of creating a real employment system to face it. Three recent events in Washington show that the federal government still plays—and must play—a critical role in ensuring that states rise to the challenge.

The Clinton Administration announced that federal employment law requires states to pay the minimum wage to participants in "workfare" programs. Widely interpreted as a sop to organized labor, this ruling in fact makes sense. You remember that the object of welfare reform is not "workfare" which simply requires that recipients do public sector work in exchange for public assistance—but placing welfare recipients in private-sector, unsubsidized jobs.

Workfare should represent the jobs of last, not first, resort for welfare recipients. Allowing low-benefit states to meet work participation requirements "on the cheap" through workfare slots that pay far below entry-level wages in the private sector could create a huge disincentive to any meaningful efforts to actually help welfare recipients gain self-employment.

Congress could help such states meet the minimum wage requirement by making it clear that food stamp benefits count when states calculate total workfare compensation—without the added hurdle of getting federal approval state by state.

Meanwhile, the Treasury Department is soon to make a ruling on whether workfare participants qualify for the earned income tax credit. It is critical that Treasury say "yes." Otherwise, the single most important economic incentive to move from workfare into private sector jobs and independence from public assistance could be lost.

The Clinton Administration turned down a request from Texas to privatize the welfare intake and eligibility determination process as part of a larger, integrated system of human services programs. In contrast to the minimum wage decision, allegations of pandering to unions, in this case representing welfare caseworkers, are probably unfounded.

States should indeed have maximum flexibility to design a new system that draws on private-sector expertise and integrates various services so that citizens do not endlessly shuttle from office to office to meet their needs.

There is a legitimate concern that states could set up a system that gives private contractors financial incentives to

discourage people from seeking public assistance. To address this concern in the Texas case, the President's key advisors (including two Cabinet members) recommended a reasonable compromise permitting private-sector management of a one-stop system, while retaining public sector control of eligibility determination. Unfortunately, the Clinton Administration rejected this compromise.

If states are to "end welfare as we know it," then the federal government should not be in the business of protecting job security for public sector welfare caseworkers. For their part, the states should involve the private sector, but should also focus the incentives of the new system on how many recipients get jobs in the end, not how many get assistance at the beginning.

(3) The federal budget agreement just approved by Congress provides for an additional \$3-billion for states for welfare-to-work programs. When Congress begins putting the details on paper, we have a few suggestions.

First, this money should focus on job readiness, placement, and support services—not education activities. Other funds are available for the education of welfare recipients; the emphasis of past, failed welfare reform efforts—while these new funds are critical to making sure we actually link recipients to private-sector labor markets.

Second, these funds are limited and should be available to states and local governments on a matched, competitive basis for creative work-based initiatives. There should be performance bonuses for successful placement and retention in the private sector, and the option of vouchers for recipients should be encouraged.

Third, Congress should not create barriers for states already moving to create one integrated program for assistance to all dislocated and disadvantaged workers. While targeted funding for different populations makes sense, there is no reason to have a separate, parallel employment system for welfare recipients.

Finally, welfare-to-work programs must be evaluated. Data collection focusing on job retention should be required—especially since the rest of the welfare block grant does not require collection of any information about what happens to families who are no longer receiving assistance.

The bottom line is this: the federal government has a continuing responsibility to keep states' eyes on the prize by strongly encouraging states to devote their resources to building a bridge to private-sector jobs, and making those jobs pay for recipients.



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Workfare rule no shock to state

Some places resist federal edict that minimum wage applies, but W-2 pay is expected to top that

By Tom Heinen
of the Journal Sentinel staff

May 17, 1997

State officials said Friday that they did not think the Wisconsin Works welfare plan would be disrupted by a White House decision that minimum wage laws should apply to welfare recipients forced into public service jobs.

That's largely because they expect to pay grants equivalent to more than the federal minimum wage of \$4.75 an hour when W-2 begins statewide in September.

"We're watching it closely, and if we are interpreting it right, it looks like we will be OK here in Wisconsin," said Kevin Keane, Gov. Tommy Thompson's press secretary.

"We're concerned," he added. "Whenever you have Washington coming in starting to hand down rules, you get very nervous as to where they are going to take those rules."

However, minimum-wage advocates in Wisconsin welcomed the White House announcement.

"To me, the best thing about this is that we're having this conversation," said David Riemer, director of the City of Milwaukee Department of Administration and a spokesman for Mayor John Norquist.

Riemer now hopes there will be a national debate about whether welfare mothers should be treated like other workers.

"Initially, we're very encouraged by this," said Marcus White, program coordinator for the Interfaith Conference of Greater Milwaukee. "Since W-2 was proposed, we have felt that all workers should be entitled to the same rights as any other worker, and that includes minimum wage, access to earned income tax credit, and the same rights and responsibilities that any other worker has."

Bruce Reed, the president's domestic policy adviser, touched off the reactions Friday by saying administration lawyers had concluded that the Fair Labor Standards Act and its minimum wage requirements applied to welfare workers in public service jobs, because Congress did not specifically exclude them from the act in last year's landmark welfare bill.

Governors in some states reacted sharply, saying it would vastly increase costs and leave them unable to enroll the number of workfare recipients that are required under the welfare law Congress passed.

"I would say Wisconsin is in better shape than other states that might be more worried about it, because we are simply more generous (with welfare payments)," said David Blaska, a spokesman for the state's Department of Workforce Development.

Under Thompson's proposed budget bill, W-2 grants would be increased so that people in community service jobs would work 30 hours a week and get paid \$673 per month. At roughly 120 hours per month, that would be the equivalent of \$5.61 per hour.

Under existing statutes, the monthly grant at that level is \$555, Blaska said.

That would work out to roughly \$4.63 an hour if one assumed a 120-hour work month.

Riemer, Norquist and others want workfare recipients to get minimum-wage pay, to get paychecks after they work instead of grants in advance, to be subject to income and Social Security taxes, and to generally have the same kind of work experience that other workers do. Their theory, in part, is that this will make it much easier for them to adjust to the real work world when they seek a private sector job.

Keane and others contend this would increase costs or reduce the number of hours of work that could be funded, and would reduce the incentive for welfare recipients to move up from W-2 work programs to independent employment.

A big issue is that paying the welfare money as taxable wages also would qualify the workers for an earned income tax credit. That would cost the state about \$15 million, and the federal government about \$45 million each year in Wisconsin alone, according to Keane and Rep. John Gard (R-Peshtigo), an author of the W-2 plan.

"Without any sort of black and white specific requirements, it's hard to tell what all the implications (of the White House decision) are. But if they force us to, in effect, pay wages, then there are profound implications on Wisconsin and every state in America," Gard said.

Riemer hopes the Fair Labor Standards Act will require that grant money be paid to workfare recipients as actual wages.

But Steve Savner, a senior staff attorney at the Center for Law and Social Policy in Washington, D.C., said the act doesn't require that. The larger issues -- whether workfare "earnings" are subject to income taxes and Social Security taxes -- have yet to be decided by the Treasury Department and the Social Security Administration, he said.

The Associated Press contributed to this story.

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DEPARTMENT OF THE TREASURY
WASHINGTONcc: Bruce Reed
Cynthia
Diana
+ return

WR-FLSA

ASSISTANT SECRETARY

MEMORANDUM FOR ELENA KAGAN
DEPUTY ASSISTANT TO THE PRESIDENT
FOR DOMESTIC POLICY

FROM: DONALD C. LUBICK *DL*
ACTING ASSISTANT SECRETARY (TAX POLICY)

SUBJECT: Taxation of Welfare-to-Work Programs

DATE: May 28, 1997

At a recent meeting regarding the Administration's efforts to address the issues raised by welfare-to-work programs, you raised the prospect of legislation that would exempt all welfare payments from federal taxation. This memorandum provides a status report on the Internal Revenue Service's (IRS) progress in analyzing the taxability of welfare-to-work payments. It also discusses certain issues that need to be considered regarding the proposed legislative solution.

Status Report

The IRS has adopted a two-pronged approach to determine the federal tax treatment of government assistance payments in the welfare-to-work context. First, the IRS is presently analyzing whether food stamp wage supplementation payments are exempt from tax under the Food Stamp Act of 1977. We understand that the IRS expects to reach a preliminary conclusion with respect to this issue very soon.

Second, the IRS is analyzing the taxable nature of all other welfare-to-work payments under applicable sections of the Internal Revenue Code and the general welfare doctrine. Under the general welfare doctrine, government-paid benefits to welfare recipients are excludable from the recipient's income if the benefits are intended to promote the general welfare and are not compensation for services performed. We understand that the IRS expects to generate two examples that would demonstrate the application of the legal principles embodied in the general welfare doctrine to specific facts and circumstances. These examples would be shared with all interested agencies. Moreover, as always, the IRS is willing to address particular issues that States or local governments have in the private ruling context.

Proposed Legislation

The legislative proposal to exempt welfare-to-work payments from federal tax raises certain tax policy and administrative concerns. The benefit of certainty provided to States by the proposal must be weighed against these concerns.

In particular, because welfare-to-work programs may operate differently from earlier forms of governmental assistance programs, a tax exemption of the former may have interactions with other tax and non-tax laws that did not arise under prior law and have yet to be fully considered. For example, in evaluating the proposal, one should carefully consider whether taxing welfare-to-work payments, and thus treating such payments as earned income for earned income tax credit (EITC) purposes, would provide an overall benefit to States and welfare-to-work recipients. Treating welfare-to-work payments as earned income for EITC purposes would provide a federally funded wage subsidy to welfare recipients that would more than offset the additional employment tax burden imposed on employers. Under the EITC, eligible workers effectively receive a wage subsidy equal to 36% (if they have one qualifying child) or 40% (if they have two or more qualifying children) of their wages. States could use this wage subsidy to reduce the benefits they pay welfare recipients and/or provide greater assistance to recipients so that they can become financially independent. Of course, the proposal could be modified so that welfare-to-work payments would be exempt from tax but would nonetheless be treated as earned income for EITC purposes. Such a proposal, however, would be costly.

5-30

cc: Bruce
+ return

Elena,

~~WR~~ WR-FLSA

I finally found a copy of the 1994 Clinton welfare bill. As you can see, the post-time limit public jobs were covered by FICA. The legislation included exemptions for EITC, TJTC, FUTA and income tax, but not FICA.

There were (and are) strong policy reasons for making FICA applicable to welfare and welfare-type positions. Women who spend long periods out of the workforce or working off the books can have difficulty accumulating the 40 quarters of work needed to qualify for Social Security.

Applying FICA to workforce
could, by increasing their quarters
of work, be quite helpful to
some recipients in the long run.

Zmil

Work and Responsibility Act of 1990

- (b) WORK registrants and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid (pending implementation of the Health Security Act). Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.
- (c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).
- (d) Earnings from WORK positions would not be subject to tax, would not be treated as earned income or included in adjusted gross income for purposes of calculating the Earned Income Tax Credit, and would not be treated as qualified wages for purposes of the Targeted Jobs Tax Credit.
- (e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.
- (f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.
- (g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.
- (h) With respect to the distribution of child support, WORK participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK participant were receiving AFDC benefits in addition to WORK wages, child support would be treated just as it would for any other family receiving AFDC benefits (generally, a \$50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the supplemental AFDC benefits).

34. SUPPORTIVE SERVICES/WORKER SUPPORT

Specifications

- (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)(1), Social Security Act). Similarly, States would be mandated to provide other work-related supportive services as needed for participation in the WORK program (as with JOBS participants, Section 402(g)(2), Social Security Act).
- (b) States would be permitted to make supportive services available to WORK participants who were engaged in approved education and training activities *in addition to* a WORK assignment or other WORK program activity. In other words, a State could, but would not be required to, provide child care or other supportive services to enable a WORK participant to, for example, also take a vocational education course at a community college.

- (f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits—States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. HOURS OF WORK

Specifications

- (a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 40 hours per week during a month.

Each State would be required, to the extent possible, to set the hours and wage rates for WORK assignments such that the wages from a WORK assignment represented at least 75 percent of the total of the wages and AFDC benefits received by a WORK participant. This would be a State plan requirement.

32. EARNINGS SUPPLEMENTATION

Specifications

- (a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job that met the minimum work standard was not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an AFDC benefit sufficient to leave the family no worse off than a family of the same size that was on AFDC and had no earned income.
- (b) With respect to eligibility and benefit determination, AFDC benefits for families described in (a) above would be identical to AFDC benefits for persons who had not reached the two-year time limit, except that the supplemental AFDC benefit would not be adjusted up due to failure to work the set number of hours for a WORK assignment.
- (c) The work expense disregard for the purpose of calculating any supplemental AFDC benefit would be set at the same level as the standard \$120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

33. TREATMENT OF WORK WAGES WITH RESPECT TO BENEFITS AND TAXES

Specifications

- (a) Except as otherwise provided in these specifications, wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, SSI, Medicaid, public and Section 8 housing).

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for carrying out the program
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ion (k)(2) and (l)(2) of section

403. The State shall be entitled to so much of such amount as equals the percentage specified in section 403(k)(1)(A) multiplied by its expenditures necessary to carry out its approved application.

"(B) A State may include, as expenditures necessary to carry out its approved application, amounts expended for stipends, wage subsidies, supportive services, training, and administrative costs of the State agency directly related to the program under this subsection."

SEC. 207. FEDERAL TAX TREATMENT OF WORK REMUNERATION.

(a) Work Remuneration Ineligible For Earned Income Tax Credit.-- Subparagraph (B) of section 32(c)(2) (defining earned income for purposes of the Earned Income Tax Credit) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following clause:

"(iv) no amount of remuneration received for services provided in a WORK position to which the taxpayer was assigned under Part G of title IV of the Social Security Act shall be taken into account."

(b) WORK Remuneration Ineligible for Targeted Jobs Tax Credit.--Section 51(b) (defining qualified wages for purposes of the Targeted Jobs Tax Credit) of the Internal Revenue Code of

1986 is amended by inserting after paragraph (3) the following new paragraph (4):

"(4) Special Rules for WORK Positions.--

"(A) Qualified Wages.--No amount of remuneration received for services provided in a WORK position to which an employee was assigned under Part G of title IV of the Social Security Act shall be treated as qualified wages.

"(B) Qualified First-Year Wages.--The 1-year period described in paragraph (2) is determined without regard to the period in which the employee provided services in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act."

(c) WORK Remuneration Not Subject To FUTA.--Section 3306(b) (defining wages for purposes of the federal unemployment tax) of the Internal Revenue Code of 1986 is amended by striking "or" at the end paragraph (15), by striking the period at the end of paragraph 16 and inserting in lieu thereof ", or", and by inserting after paragraph (16) the following paragraph:

"(17) remuneration paid for services provided in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act."

(d) WORK Remuneration Excluded From Gross Income.-- The Internal Revenue Code of 1986 is amended by redesignating section 137 (containing certain cross references) as section 138, and by inserting after section 136 the following section:

"Section 137. WORK Program Remuneration.-- Gross income shall not include any remuneration received for services provided in a WORK position to which the individual was assigned under Part G of title IV of the Social Security Act."

TITLE III - CHILD CARE

SEC. 301. CHILD CARE FOR JOBS AND WORK PROGRAM PARTICIPANTS AND AT-RISK FAMILIES.

(a) Guarantee While in WORK or JOBS Program.-- (1) Section 402(g)(1)(A)(i)(I) of the Act is amended by striking out the semicolon and inserting in lieu thereof "(including employment under part G, or other required activities under such part)";

(2) Section 402(g)(1)(A)(i) of the Act is amended--

(A) by striking out "(including participation in a program that meets the requirements of subsection (a)(19) and part (F))", and

(B) by striking out "approves the activity" and inserting in lieu thereof "approves the activity as part of the individual's employability plan under part F (regardless of whether resources are available to provide other services or pay for other activities to carry out such plan)".

WR-FLSA

To: Bruce Reed
From: Peter Cove
Re: Welfare/minimum wage

One argument to the Governors and others who say they cant make the participation rates if minimum wage must be paid:

Beat the drum on private jobs-do not let them off the hook with the position that public jobs are the only way to meet Federal requirements. Push Eli's Partnership. Highlight the 3 billion the President got in for welfare to work initiatives.

Somehow craft the argument to highlight the irony of Republican Governors and legislators favoring public job creation over private sector work (particularly in this booming economy)-favoring continuing benefits in workfare over welfare reduction through private employment.

Date: 05/16/97 Time: 17:30

WPaying minimum wage to working welfare recipients irks governors

WFLA

WASHINGTON (AP) Governors in both parties are accusing the Clinton administration of making it harder for them to comply with last year's welfare reform law by requiring them to pay the federal minimum wage to aid recipients forced into public service jobs.

Florida Democratic Gov. Lawton Chiles said the administration's decision would "essentially destroy the delicate blueprint" his state has designed to move people off welfare rolls and into jobs.

"We have a program that's getting people from welfare to work and the president may be stepping in and upsetting the apple cart," echoed Pete McDonough, spokesman for New Jersey Republican Gov. Christie Whitman.

The White House this week endorsed a Labor Department conclusion that, like other workers, welfare recipients are covered by the Fair Labor Standards Act and are entitled to federal minimum wage of \$4.75 per hour.

"Work should be rewarded," White House spokesman Mike McCurry said Friday. "We don't believe this will be unduly burdensome on states, but it ... will give a living wage to people who we are trying to encourage to move out of welfare and into work."

Previous welfare laws have exempted welfare recipients enrolled in such workfare programs from the minimum wage, but last's year measure did not address the issue. McCurry called the administration's decision this week "an interpretation of law, not a matter of policy."

But a key House Republican said Congress never intended the minimum wage to apply and indicated that he might introduce legislation exempting welfare workers from the Fair Labor Standards Act.

"If the president doesn't turn that interpretation around, we are going to have to address it," Rep. Clay Shaw, R-Fla., a chief author of the welfare reform law, said in an interview.

Shaw complained in a letter Friday to President Clinton that some states will be forced into paying significantly larger benefits or will lose federal money as a punishment for failing to enroll welfare recipients in work programs.

"If your administration thinks your hands are tied by the current labor laws and wants Congress to fix them, I stand ready to help," Shaw wrote.

Barry Toive, another White House spokesman, said the administration would oppose any efforts in Congress to change its decision.

Under the new welfare law, welfare recipients are required to work 20 hours per week after two years on the rolls. If they cannot find work in the private sector, states may place them into community service jobs.

States worry that they'll have to increase welfare payments if they are to enforce the 20-hour work rule and obey the minimum wage. A typical state's welfare check for a three-person family is now less than someone would earn working 20 hours per week at minimum wage.

McCurry said he expected food stamp payments to be calculated into a recipient's wages. The combination of food stamps and cash benefits now exceeds a 20-hour week minimum wage check in every state but Mississippi, he said.

However, the pressure on states will intensify in 2000, when welfare recipients are required to work 30 hours a week. And

two-parent families are required to log 35 hours of work per week.

"I feel certain that the Congress did not intend the welfare reform law to be interpreted like this," Democratic Gov. Tom Carper of Delaware said Friday. "Both Democrat and Republican governors and an independent or two are on the same page on this one."

Don Winstead, Florida's welfare administrator, noted that his state now provide a family of three a welfare check of \$303 per month, or just 16 hours worth of work under the minimum wage. "We could be stuck between two federal laws," he said.

"This is a White House that has said repeatedly we will let states run themselves," Republic Gov. George W. Bush of Texas complained Friday. "And yet here is another example of the Clinton administration not letting Texas run Texas, interfering with our ability to move people from welfare to work."

Bush noted that this is the second time in a month the Clinton administration sided against his state in a welfare dispute. To the applause of labor unions, the Department of Health and Human Services said two weeks ago that Texas could not let private companies run the state's Medicaid and food stamp programs.

APNP-05-16-97 1744EDT

Talking Points on FLSA

5/16/97

- The Labor Department has concluded that the Fair Labor Standards Act (FLSA) applies to welfare recipients in workfare or other subsidized employment programs in the same way as that law applies to all other employees.
- This means that many, if not most, welfare recipients in these programs will receive at least the minimum wage for their work activities.
- Welfare recipients in these programs will not have to be paid the minimum wage if they fall within the FLSA's exception for "trainees." Some states will probably try to structure their workfare programs so that recipients fall within the "trainee" exception.
- In most cases in which the minimum wage is required, both cash assistance and food stamps will count toward the minimum wage. The Department of Agriculture will take necessary administrative action to ensure that food stamps can be counted to the greatest degree possible.
- This will not affect the work requirements of the welfare law. States will still be able to meet those requirements, not only by putting recipients in workfare, but by placing people in private sector jobs (where the minimum wage already applies). With both cash assistance and food stamps counting toward the minimum wage, very few states will have to increase their assistance payments. In fact every state but one (Mississippi) can comply with the welfare law's current work requirements (now 20 hours per week for a welfare recipient) and pay minimum wage without increasing their current benefit level.
- The Labor Department will provide guidance within the next week or two on the specifics of this policy and will engage in extensive consultation with states on how to apply this policy with the least disruption.
- The Treasury Department is still exploring how the tax laws apply to welfare recipients in workfare programs. We hope to be able to give states an answer to that question very shortly.

Q&A

Question: Won't this end welfare reform as we know it by making work more expensive?

Answer: Not at all. With both TANF and food stamps counting toward the minimum wage, every state except Mississippi will be able to give welfare recipients workfare slots for 20 hours each week (the welfare law's current work requirement) without raising their benefit levels. And of course states should be trying to place welfare recipients in private sector jobs where the minimum wage already applies.

Question: Are most welfare recipients who are working going to be considered "employees"?

Answer: Most welfare recipients participating in the work activities described in the new welfare law probably will count as "employees," entitled to the minimum wage, under the FLSA. But some individuals, engaged in such activities as job search, vocational education, and secondary school, may count as "trainees" instead. The Labor Department will advise states on how the FLSA applies to particular programs and individuals engaged in them.

Question: What's the difference between a trainee and a worker under FLSA?

Answer: An individual is in training if:

- Training is similar to that given in a vocational school;
- Training is for the benefit of the trainee;
- Trainees do not displace regular workers;
- The employer derives no immediate advantage from the trainees' activities;
- Trainees are not entitled to a job after training is completed; or
- The employer and trainee understand that the trainee is not paid.

Question: Can Food Stamps count as wages?

Answer: We believe that through waivers or other mechanisms such as the Simplified Food Program option now in law, states will be able to count food stamps toward the minimum wage for all those required to work under the new welfare law.

Question: Does this mean welfare recipients in workfare and other subsidized employment programs can unionize?

Answer: No -- that is a different question entirely. Whether and when workers can unionize is a function of the National Labor Relations Act. The National Labor Relations Board, an independent entity that administers that Act, has not ruled on the unionization question.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Melissa T. Skolfield

Assistant Secretary for Public Affairs

Phone: (202) 690-7850

Fax: (202) 690-5673

To: Bruce Reed

Fax: 456-2878 Phone: _____

Date: 5/16/97 Total number of pages sent: 2

Comments:

200 Independence Avenue, S.W., Bldg. HHH, Room 647-D, Washington, D.C. 20201

~~1/10/97~~
a little helpful

For to Bruce Reed - Is this
Q&A still right? Should I
just refer media calls to
Labor? Melvin

DRAFT - FOR INTERNAL USE ONLY
Questions and Answers on FLSA

Q. Is this a big deal?

A. No. We are simply applying the Fair Labor Standards Act (FLSA) as it applies to all workers. The FLSA has a very broad definition of employment that applies to welfare recipients who are required to work just as it does to any other worker.

Q. Are there still activities that states can count as work, but won't be subject to the minimum wage and other FLSA rules?

A. Yes. Some welfare recipients will participate in work activities that would be considered training activities under FLSA - such as vocational education, job search assistance, and GED classes - and therefore the minimum wage and other FLSA requirements would not apply. But in most cases, where welfare recipients are engaged in work for either a private company or a public agency, they will be entitled to the minimum wage just like any other worker.

Q. Are you doing this at the urging of the unions?

A. No. The Clinton Administration carefully considered this issue as part of our overall effort to successfully implement the welfare law. Whether someone is an employee entitled to the minimum wage and all of the FLSA protections has nothing to do with politics or unions. Our priority is to move people from welfare to work and ensure that all workers are protected under the law.

Q. Are you doing this in response to concerns about displacement raised by the New York Times and others?

A. No. First, the welfare law signed by the President prohibits worker displacement. Welfare reform programs cannot place welfare recipients in job openings created by company firings or layoffs. Second, we believe that the growing economy creates enough job opportunities to meet the President's goal of putting one million welfare recipients to work by the year 2000. We have already created 12 million new jobs over the last four years. To ensure that adequate jobs are available, the President has proposed in his budget a \$3 billion Welfare-to-Work Jobs Challenge funds which states and cities could use to create new jobs for welfare recipients.

**IMPACT ON STATES
OF PAYING MINIMUM WAGE FOR WORKFARE¹
Example: Family of Three**

Minimum Wage Costs

The monthly cost of a \$5.15 minimum wage for 20 hours a week is \$443 and for 30 hours a week is \$664. The welfare law's work rates for single parent families are currently 20 hours a week; they rise to 30 hours in the year 2000.²

If States Use TANF Funds as "Wages"

In 36 states, current TANF benefits are not enough to pay for 20 hours a week at the minimum wage. In 48 states (all but Alaska and Hawaii), current TANF benefits are too low to pay for 30 hours per week of work at the minimum wage.

If States Use TANF and Food Stamps Funds as "Wages"

In one state, Mississippi, the combined TANF and food stamp grants are not enough to pay for 20 hours a week of work at the minimum wage. In 20 states, the combined benefits are not enough to pay for 30 hours a week of work. These states are:

Nevada	Oklahoma	North Carolina	Louisiana
Arizona	Florida	Kentucky	Texas
Ohio	Missouri	West Virginia	Tennessee
Delaware	Indiana	Arkansas	Alabama
Idaho	Georgia	South Carolina	Mississippi

¹ This table points out the potential shortfall for workfare programs, in which public funds would be the only source of wages for the recipient. In a wage subsidy program, the shortfall would be filled by a contribution from the employer. Thus, the application of the minimum wage will likely encourage states to have work subsidy, rather than workfare, programs.

² The new law requires for single parent families a minimum of 20 hours of work a week in 1997 and 1998, 25 hours in 1999 and 30 hours in 2000. The minimum for two parent families is 30 hours a week for all years. These calculations assume an average of 4.3 weeks per month.

Talking Points on FLSA

5/15/97

This Administration is committed to moving people from welfare to work. This Administration is also committed to making sure that workers get paid at least the minimum wage for their efforts.

- That means all workers who do real work -- whether or not they come off the welfare rolls.
- But there are complicated legal questions here, involving who counts as a "worker" and who as a "trainee" under the minimum wage law.

Our agency lawyers believe that the welfare law says that that people who leave welfare for work should be treated like other workers:

- If they are workers, not trainees, they should receive the minimum wage, overtime, and unemployment insurance.
- Their employers must adhere to the Occupational and Safety Act and anti-discrimination laws.

Not all welfare to work activities will be considered "work" under the Fair Labor Standards Act. But those that are work should be treated like work. That's not just our view -- it is the law.

Q&A

Question: Won't this end welfare reform as we know it by making work more expensive?

Answer: Not at all. States that want to have workfare programs can do so -- combining TANF and food stamps will pay the minimum wage for 20 hours a week in virtually every state [except Mississippi]. Besides, welfare reform is about placing people in real, private sector jobs -- workfare should be only a temporary last resort. A better alternative would be for states to use the welfare funds to subsidize private sector jobs.

Question: Are most welfare recipients who are working going to be considered "employees"?

Answer: Welfare recipients would probably be considered employees in most of the work activities described in the new welfare law. Exceptions are most likely to include individuals engaged in job search, vocational education, and secondary school. The Labor Department will advise states based on their particular programs.

Question: What's the difference between a trainee and a worker under FLSA?

Answer: An individual is in training if:

- Training is similar to that given in a vocational school;
- Training is for the benefit of the trainee;
- Trainees do not displace regular workers;
- The employer derives no immediate advantage from the trainees' activities;
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Question: Can Food Stamps count as wages?

Answer: We believe that through waivers or other mechanisms such as the Simplified Food Program option now in law, states would be able to count food stamps as wages for all those required to work under the new welfare law.

Talking Points on FLSA

5/16/97; 2:20 p.m.

- The Labor Department has concluded that the Fair Labor Standards Act (FLSA) applies to welfare recipients in workfare or other subsidized employment programs in the same way as that law applies to all other employees.
- This means that many, if not most, welfare recipients in these programs will receive at least the minimum wage for their work activities.
- Welfare recipients in these programs will not have to be paid the minimum wage if they fall within the FLSA's exception for "trainees." Some states will probably try to structure their workfare programs so that recipients fall within the "trainee" exception.
- In most cases in which the minimum wage is required, both cash assistance and food stamps will count toward the minimum wage. The Department of Agriculture will take necessary administrative action to ensure that food stamps can be counted to the greatest degree possible.
- This will not affect the work requirements of the welfare law. States will still be able to meet those requirements, by placing people in private sector jobs (where the minimum wage already applies) and in workfare programs. With both cash assistance and food stamps counting toward the minimum wage, very few states will have to increase their assistance payments. In fact, every state but one (Mississippi) can comply with the welfare law's current work requirements (now 20 hours per week for a welfare recipient) and pay minimum wage without increasing their current benefit level.
- Far from undermining the welfare law, paying welfare recipients the minimum wage required by the law promotes the goals of welfare reform by giving people the ability to support their families and break the cycle of dependency.
- The Labor Department will provide guidance within the next week or two on the specifics of this policy and will engage in extensive consultation with states on how to apply this policy with the least disruption.
- The Treasury Department is still exploring how the tax laws apply to welfare recipients in workfare programs. We hope to be able to give states an answer to that question very shortly.

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Question: Does this mean welfare recipients in workfare and other subsidized employment programs can unionize?

Answer: No -- that is a different question entirely. Whether and when workers can unionize is a function of the National Labor Relations Act. The National Labor Relations Board, an independent entity that administers that Act, has not ruled on the unionization question.

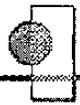
Question: Would the Administration support or oppose legislation to exempt welfare recipients from the minimum wage laws?

Answer: We would oppose legislation that flatly exempts welfare recipients from the minimum wage law. The Administration believes that people who work should be paid at least the minimum wage.

Question: Would you oppose any legislation addressing this issue?

Answer: Not necessarily, but any legislation would have to be consistent with our support for the minimum wage. In determining how the minimum wage law applies to workfare, the Administration has had to address a host of technical issues that Congress did not deal with in passing the welfare law. If Congress wants to address these issues, the Administration will consider the proposals carefully. But any legislation must reflect the Administration's position that people who work should be paid at least the minimum wage.

WR-FLSA



Cynthia A. Rice

03/11/97 07:08:04 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Re: FLSA in 94 and 96 Administration WR Bills

Jeff Farkas found basically that our '94 bill kept worker protections for workfare protections while our '96 bill did not (see below). This will make our roll-out even more tricky.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 03/11/97 07:01 PM -----

▶ **Jeffrey A. Farkas**
03/11/97 09:34:15 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Keith J. Fontenot/OMB/EOP, Stacy L. Dean/OMB/EOP
Subject: FLSA in 94 and 96 Administration WR Bills

Here is some information on the FLSA-related provisions of the Administration's 1994 and 1996 welfare bills (in the sections related to cash assistance work programs). Please let me know if you have any questions.

The WORK program in the 1994 bill incorporated a comprehensive set of workfare protections, including minimum wage (FLSA), workers compensation, working conditions, and FICA taxation. The bill did not provide unemployment compensation coverage (at the Federal or State level), and did not allow the EITC for earnings from WORK positions.

The 1996 bill is much less specific than the 1994 bill. It would extend FLSA coverage for work supplementation programs (the language is nearly identical to the work supp provisions in the JOBS statute, where FLSA applied), but not for workfare positions. Under workfare, participants in community service jobs were required to work a designated number of hours (reaching 30 per week in the outyears) and to be paid at a rate which is "100 percent of the maximum amount of assistance that may be provided under the State plan...to a family of the same size and composition with no income." In many instances this level would be sub-minimum wage. In addition, the bill provided that "wages paid under a workfare program shall not be considered to be earned income for puposes of any provision of law." This would seem to preclude application of FLSA.

Message Sent To: _____

Kenneth S. Apfel/OMB/EOP
Barry White/OMB/EOP
Cynthia M. Smith/OMB/EOP
Jill M. Pizzuto/OMB/EOP
Cynthia A. Rice/OPD/EOP
Larry R. Matlack/OMB/EOP
Janet Himler/OMB/EOP

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Lyn A. Hogan/OPD/EOP
Kenneth S. Apfel/OMB/EOP

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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George F. Becker
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James LaSala
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Robert A. Scardelletti
Andrew L. Stern
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Gerald W. McEntee
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Moe Biller
James J. Norton
Frank Hurt
Stephen P. Yokich
Carolyn Forrest
Sonny Hall
William Lucy
A.L. "Mike" Monroe
Robert E. Wages
Edward L. Fire

June 16, 1997

MEMORANDUM

To: Elena Kagan, Deputy Assistant to the President-Domestic Policy Council

From: Gerry Shea

Re: FLSA Coverage

For your information attached is a materials kit for our grass roots mobilization in support of FLSA coverage for workfare workers.

GS/wb

Bruce/Cynthia/Diana -

FYI.

Elena

MEMORANDUM

TO: Key Coordinators of FLSA Grassroots Effort
AFL-CIO State Directors

FR: Ken Grossinger, AFL-CIO Legislative Department
Deborah Dion, AFL-CIO Public Affairs Department

RE: New AFL-CIO FLSA Ad and Grassroots Activities

On Wednesday, June 18 the AFL-CIO will release a new TV and Radio ad that will run for one week in 10 House districts and in five States aimed at making a clear case for people who work in workfare programs. This will be the AFL-CIO's second round of issue ads in this Congress.

In upcoming weeks we will be organizing around pressing tax issues and NAFTA/fast track.

A broad array of national organizations support the position that welfare recipients who work in workfare programs should receive the minimum wage. This position is also supported by large margins of the American public who were polled last weekend.

In this packet you have the following documents:

- Scripts and back-up documentation for TV ads.
- List of districts where the ads are airing.
- Suggestions for holding press events around the release of the ads.
- Talking points on the issue.
- Sample advisory and release for press conferences.
- Voting records.
- General background materials to supplement our position.

You will receive another package on Tuesday, June 17 under separate cover with VHS copies of the TV ad and tapes of the radio spot. Radio scripts and backup documentation for the radio spots will be faxed on Monday, June 16. If you have any questions, or need help with press outreach, please call Deborah Dion at 202-637-5036 or David Saltz at 202-637-5318.

PAID MEDIA ON FLSA COVERAGE
START DATE -- 6/18/97

HOUSE:

<u>DISTRICT</u>	<u>CONGRESSMAN</u>	<u>SPOT</u>	<u>MEDIA MARKET</u>
AR-04	Jay Dickey (R)	TV	Little Rock/Shreveport
AZ-06	J.D. Hayworth (R)	TV	Phoenix
CA-01	Frank Riggs (R)	TV/Radio	Eureka
WA-03	Linda Smith (R)	TV	Portland, OR
NV-01	John Ensign (R)	TV	Las Vegas
IA-02	Jim Nussle (R)	TV	Cedar Rapids
MO-09	Kenny Hulshof (R)	TV/Radio	Columbia, Jefferson City St. Louis
WI-01	Mark Neumann (R)	TV	Milwaukee
FL-22	E. Clay Shaw (R)	Radio	Miami

SENATE:

RI	John Chafee (R)	Radio
ME	Susan Collins (R)	Radio
PA	Rick Santorum (R)	TV/Radio

AFL-CIO AR-04
:30 TV Spot on Workfare
Jay Dickey

DATE: June 13, 1996

TITLE: "Fairness" AFL-AR-04

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

AUDIO

This worker is paid the minimum wage.

But under a proposal pending in Congress,
this worker could be paid less than the
minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Dickey. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO AZ-06
:30 TV Spot on Workfare
J.D. Hayworth

DATE: June 13, 1996

TITLE: "Fairness" AFL-AZ-06

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

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minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Hayworth. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO CA-01
:30 TV Spot on Workfare
Frank Riggs

DATE: June 13, 1996

TITLE: "Fairness" AFL-CA-01

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

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welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Riggs. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO WA-03
:30 TV Spot on Workfare
Linda Smith

DATE: June 13, 1996

TITLE: "Fairness" AFL-WA-03

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

AUDIO

This worker is paid the minimum wage.

But under a proposal pending in Congress,
this worker could be paid less than the
minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congresswoman Smith. Tell her
to fight for fairness --

One minimum wage for everybody.

AFL-CIO NV-01
:30 TV Spot on Workfare
John Ensign

DATE: June 13, 1996

TITLE: "Fairness" AFL-NV-01

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
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simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Ensign. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO IA-02
:30 TV Spot on Workfare
Jim Nussle

DATE: June 13, 1996

TITLE: "Fairness" AFL-IA-02

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
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minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Nussle. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO MO-09
:30 TV Spot on Workfare
Kenny Hulshof

DATE: June 13, 1996

TITLE: "Fairness" AFL-MO-09

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

AUDIO

This worker is paid the minimum wage.

But under a proposal pending in Congress,
this worker could be paid less than the
minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Hulshof. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO WI-01
:30 TV Spot on Workfare
Mark Neumann

DATE: June 13, 1996

TITLE: "Fairness" AFL-WI-01

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

AUDIO

This worker is paid the minimum wage.

But under a proposal pending in Congress,
this worker could be paid less than the
minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Congressman Neumann. Tell him
to fight for fairness --

One minimum wage for everybody.

AFL-CIO PA
:30 TV Spot on Workfare
Rick Santorum

DATE: June 13, 1996

TITLE: "Fairness" AFL-PA

VIDEO

Male worker in records room filing,
facing screen left

Rack focus to female worker picking
files off desk

Super headline: "GOP in House Moves
to Bar Minimum Wage for Workfare."

Cut to full screen with female worker

Tight shot of female looking
exasperated

Cut to scene of male worker; tight shot
of him looking exasperated

White type on black screen
1-800-765-4440

Two workers looking plaintively at
camera

cg: Paid for by the Working Men and
Women of the AFL-CIO

AUDIO

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But under a proposal pending in Congress,
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minimum wage for the very same job --
simply because she's working her way off
welfare through a state workfare program.

At below minimum wage, she can't
provide for her children.

And if an employer can hire someone
else for less, what do you think will
happen to his job?

Call Senator Santorum. Tell him
to fight for fairness --

One minimum wage for everybody.

DOCUMENTATION FOR "FAIRNESS"

Dickey

AFL-CIO: 30 TV SPOT ON
MINIMUM WAGE/WORKFARE

Ad Script:

This worker is paid the minimum wage.

But, under a proposal pending in Congress, *this* worker could be paid less than the minimum wage for the very same job -- simply because she's working her way off welfare through a state workfare program.

At below minimum wage, she can't provide for her children.

And if an employer can hire someone else for less, what do you think will happen to *his* job?

Call Congressman Dickey.
Tell him to fight for fairness --

One minimum wage for *everybody*.

Paid for by the Working Men and Women of the AFL-CIO

Facts:

Quote

On June 10, the House Ways and Means Committee voted that minimum wage laws should not apply to welfare recipients who participate in state workfare programs. On June 11, the House Committee on Education and the Work Force approved the same proposal.

When the minimum wage increases from \$4.75 to \$5.15 an hour on Sept. 1, a full-time minimum-wage worker will earn \$10,753 a year, well below \$12,158, the government's poverty level for a family of three (U.S. Department of Commerce). The average welfare recipient is a single mother of two children (The Survey of Income and Program Participation, Bureau of the Census).

59 percent of voters surveyed agree with the statement that many current minimum-wage employees would lose their jobs if workfare participants could be forced to work for less (Peter D. Hart Research Associates national voter survey, June 6-9, 1997).

Quote

Quote

Talking Points

Workplace Legal Protections for Workfare Participants

Background: The U.S. Labor Department ruled in May that people who try to get off welfare by participating in state "workfare" programs are covered by minimum-wage and other basic workplace legal protections.

Some Republican members of Congress are seeking to overturn this decision. They have included a provision in the Budget Reconciliation bill, now moving through Congress, that excludes workfare participants from coverage under the Fair Labor Standards Act (FLSA) coverage and denies them protections against discrimination on the job. The House Ways and Means Committee approved this measure on June 10. The House Committee on Education and the Work Force passed it on June 11.

- **This is a backdoor attack on the minimum wage.**
The minimum wage was created to prevent exploitation and make sure that anyone who works full time can rise out of poverty. Creating exemptions for workfare participants would blow a hole in the federal minimum wage standard. It would unfairly deny 1 million workfare participants the protections afforded to every other American worker.

- **Excluding workfare participants would create incentives for employers to lay off current minimum-wage earners.**
Last year's welfare reform legislation was never meant to artificially subsidize employers so they could replace existing workers with "cheaper" workers who earn substandard wages. But that's exactly what will happen if welfare recipients are excluded from minimum-wage coverage. Millions of current minimum-wage workers could lose their jobs, if workfare participants could be forced to work for less.

- **Fair pay for workfare is the key to making welfare reform work.**
If the point of welfare reform is to reduce dependency on the welfare system, participants must have two things: the chance to earn enough to take care of their families and the promise that if they work hard and play by the rules, they can improve their situations. Anything less creates disincentives for welfare recipients to move into jobs.

- **States can afford to pay workfare participants the minimum wage.**
Today every state but Mississippi can afford to pay the minimum wage for workfare without new state funding or any changes in grant levels. The range of options available assures that every state can meet the laws' requirements.

The minimum wage applies only to people working in workfare programs, not those in job training and vocational education programs. When it comes to meeting the requirements of welfare reform, states have been given a great deal of flexibility. Workfare is one of at least a dozen options available to them.

- **This proposal puts working women at risk.**
The average workfare participant is a single mother of two children. This proposal would deny them the minimum wage and FLSA protections against discrimination on the job. Most minimum-wage workers are also women, who would be threatened with job loss because of the incentives for employers to fire and replace them with workfare workers.

- **The American people support minimum-wage coverage for workfare participants.**
Americans believe that everyone who works is entitled to a reasonable wage. That's why there was overwhelming public support for Congress increasing the minimum wage, last year. That's why today the public today believes -- strongly -- that workfare participants should be covered by the minimum wage. Fully 69 percent agree that workfare participants should be covered, according to a national voter survey that Peter D. Hart Research Associates conducted June 6-9. Even 62 percent of Republican voters favored minimum-wage coverage.

- **America's unions and our allies will continue to fight for and defend working families against this and other attacks.**
Part of the new American labor movement we're building is creating a new voice for America's working families: in Washington and at the state and local level, in the workplace and in our communities. Our new activism has created a strong backlash by those who don't want working families to have a say in the direction of this country, but we will not be silenced.

SUGGESTIONS FOR PUTTING TOGETHER PRESS/GRASSROOTS EVENTS

On Wednesday, June 18 the federation will launch its second round of legislative ads in this Congress and we believe it is crucial to get out our message both nationally and at the local level to stop the new attack on the minimum wage. With the paid media, press work and grassroots push, we want to make a powerful case around doing what's right and fair for people who work hard and play by the rules -- and for protecting the minimum wages against exemptions and exceptions that chomp away at it.

We suggest that you participate in any or all of the following activities and include our community allies as a broad array of national organizations (list enclosed) -- from civil rights to women's to labor to legal groups -- support this position.

- Hold a press conference in front of your congressman/woman's district office with coalition partners and minimum wage or workfare workers. (Sample advisory attached).
- Hold a press briefing on Wednesday morning at your office for the major media outlets in your area to preview the ad and give the press a background briefing on the issue as well as why we are running the ads. Include coalition partners.
- Do one-on-one interviews with print reporters either in person or by phone and get them the background materials on the ad.
- Call your local newspaper and set up an editorial board meeting with coalition partners and with workfare recipients for this week if possible.
- Get a letter-to-the-editor campaign going in your district with coalition partners to demonstrate to the public that our position has strong support from community leaders and civic groups.
- Put a phone bank together to generate calls to members' offices.
- Leaflet worksites during the week and members' events over the weekend.

Even though the ads are pretty straight forward, well-documented and not attack ads, we still anticipate some hostile negative reporting -- "labor's at it again -- attacking Republicans" -- so that's why it is crucial to conduct an all out effort to make our case on the merits to the general public and to the media. If local press need any clarification or further background information on the ads please feel free to send calls to Deborah Dion at 202-637-5036 or David Saltz at 202-637-5318. Also we will be ready to move quickly to respond to the anticipated Republican opposition with editorials and letters-to-the-editor. If you hear of ads being pulled off the air -- please notify us as soon as possible.

(SAMPLE MEDIA ADVISORY)

For information, call:
(Name, phone number)

MEDIA ADVISORY FOR WEDNESDAY, JUNE 18, 1997

**LOCAL COMMUNITY GROUPS DENOUNCE "BACK-DOOR" ATTACK
ON MINIMUM WAGE AND LOW-WAGE WORKERS**

The coalition will unveil a television ad calling on (member of Congress) to guarantee "workfare" participants the same rights every other worker has

(City) -- Local community, women's, civil rights and labor groups will hold a press briefing at (location) on Wednesday, June 18, to call on Congress to reject a measure excluding "workfare" participants from coverage under the Fair Labor Standards Act and other basic worker protections. The group will unveil a new television commercial asking voters to call (member of Congress) and demand "one minimum wage for everybody."

As states move to implement workfare programs required by welfare "reform" legislation, an estimated one million recipients may soon be entering the work force. The proposal pending in Congress would severely undermine the federal minimum wage--a basic protection overwhelmingly supported by the majority of American voters--by creating a category of workers with "second-class" status and incentives for employers to replace existing workers.

Nationwide, a broad-based coalition has formed in opposition to the measure. "This is nothing more than a back-door attack on the minimum wage that threatens the living standards of all low-wage workers," says (name, title, organization.)

The 30-second television spot scheduled to begin airing in (city) Wednesday was produced by the AFL-CIO and is one of 15 that will run in key congressional districts and states around the country.

WHAT: Press briefing on the minimum wage and protections for workfare participants

WHEN: Wednesday, June 18
(time)

WHERE: (location)

###

(SAMPLE PRESS RELEASE)

For information, call: (Name, phone number)

FOR IMMEDIATE RELEASE:

June 18, 1997

**PROPOSAL TO EXCLUDE "WORKFARE" PARTICIPANTS:
A "BACK-DOOR" ATTACK ON THE MINIMUM WAGE**

New television ad aimed at Congress demands "one minimum wage for everybody"

(City), June 18 -- Area community, women's, civil rights and labor leaders are asking local residents to join them in sending (member of Congress) a message to "fight for fairness," by calling on Congress to reject a measure that would exclude "workfare" participants from the federal minimum wage and other basic worker protections. The group today unveiled a new television commercial asking voters to call (member of Congress) and demand "one minimum wage for everybody."

Community leaders charged that the proposal pending in Congress is a "back-door attack" on the federal minimum wage--an employment protection that carries the overwhelming support of Americans--and would create a category of workers with "second-class" status and incentives for employers to replace existing workers.

"If Congress passes such a law, they will severely damage the federal minimum wage standard, and the repercussions will be felt by all low-income workers," says (name, title, organization.) "It will further erode workers' living standards, particularly among those in the lowest-paying jobs."

An estimated one million welfare recipients may soon be entering the work force as states move to implement the workfare provisions of welfare "reform" legislation passed last year. Last month, the Labor Department ruled that people required to work in state workfare programs are covered by the Fair Labor Standards Act and other basic employment protections. But two House Committees--Ways and Means and Education and the Work Force--recently voted to deny workfare participants their right to the minimum wage and other protections.

Nationwide, a broad-based coalition has formed in opposition to the measure. "Welfare reform cannot work unless everyone who works is rewarded with a reasonable wage," says (name, title, organization). "How can we justify disparate pay formulas that create a perverse incentive to fire people who are entitled to the minimum wage?"

The 30-second television spot scheduled to begin airing in (city) today shows side-by-side workers doing the same job. One earns below the minimum wage and "can't provide for her children." Of the other, the ad asks: "If an employer can hire someone else for less, what do you think will happen to his job?"

The ad was produced by the AFL-CIO and is one of 15 that will run in key congressional districts around the country. The issue ads are part of the AFL-CIO's continuing outreach program to educate America's working families about crucial issues facing our nation and to raise questions about Congress' priorities on issues central to working families' lives and future.

###

They're chomping at the MINIMUM WAGE again

AMERICA HAS A WAGE FLOOR. It's the federal minimum wage, and it's one of our oldest and most fundamental protections for working families. It's there because Americans believe that all people who work are entitled to a reasonable wage. It's there to prevent employers from driving wages down by pitting one group of workers against another. It's there to give millions of working poor a chance to support their families and contribute to their communities.

But some members of Congress are trying to weaken this basic protection -- again. They're proposing to chomp away at our wage floor by creating different classes of workers -- some who are entitled to the minimum wage and some who aren't. They want to exempt people required to work in state "workfare" programs from the minimum wage and other basic employment rights -- civil rights, organizing rights, health and safety protections and curbs against sexual harassment.

If they succeed, they will create a perverse incentive to fire workers who earn low wages and replace them with other who are paid even less.

They'll destroy any possibility that welfare reform can reduce dependency on welfare by leading people into real jobs with real wages.

They'll undermine the minimum wage we raised just last year -- an increase Americans overwhelmingly supported -- so that working poor families could rise from poverty through the dignity of work.

Can America afford to pay workfare participants the minimum wage? We can't afford not to. America can't stand more erosion of workers' living standards -- especially for those in the lowest-wage jobs who are already hurting the most.

Stop the new attack on the minimum wage.

Call your representatives in Congress and tell them American voters support the minimum wage -- for all workers.

MEMORANDUM

TO: AFL-CIO

FROM: Guy Molyneux and Geoffrey Garin

DATE: June 10, 1997

SUBJECT: Minimum Wage Coverage for Workfare Recipients

Peter D. Hart Research Associates has just completed a national voter survey that includes two questions measuring support for extending minimum wage and other workplace legal protections to welfare recipients in workfare programs. The survey was conducted by telephone June 6 through 9 among a representative sample of 800 registered voters who participated in the 1996 elections. The margin of error on these results is +/-4%.

Strong voter support for minimum wage coverage. The survey results reveal that American voters strongly believe that minimum wage laws and other basic legal workplace protections should apply to those in state workfare programs. The survey question reads as follows:

As you may know, Congress passed a law last year requiring able bodied welfare recipients to work in state workfare programs. Do you believe that the people who are required to work in these workfare programs should be covered by basic legal protections, including the minimum wage law, or do you believe that the states should not have to pay the minimum wage to welfare recipients in workfare programs?

Fully 69% agree that workfare participants should be covered, while just 25% believe that states should not have to pay participants the minimum wage.

We would note that workfare participants are clearly identified in this question wording (*twice*) as still being "welfare recipients," making the strong

Peter D. Hart Research Associates, Inc.

favorable response that much more impressive (and meaningful). The breadth of support for minimum wage coverage is also striking, including two-thirds of those with incomes over \$50,000 (67%); professionals (67%), and white voters (67%). Even college-educated men (71%) and Republican voters (62%) favor minimum wage coverage by large margins.

Wage impact argument for coverage is strong. Voters' initial support for coverage doubtless arises from a fundamental sense of fairness. Since other workers receive this protection, they reason, why shouldn't workfare participants in similar jobs? However, organized labor has another, less immediately obvious reason for believing that coverage is needed – namely, the corrosive effect that sub-minimum-wage workfare programs could have on the jobs and wages of low-wage workers *outside* of workfare programs. The survey tested the appeal of this argument for coverage against a powerful opposition case that focuses on the cost of coverage to taxpayers, and finds the wage impact argument prevails by a decisive two to one margin.

Supporters of paying the minimum wage to people in workfare programs say that many employees who currently work at the minimum wage would lose their jobs if workfare participants could be forced to work for less, and also say that exempting one group of workers from minimum wage protections opens the door to undermining the minimum wage for others. (59% agree.)

Opponents of paying the minimum wage to people in workfare programs say that the taxpayers would have to support higher welfare budgets if states are forced to pay the minimum wage, and also say that welfare recipients who want better pay should get off welfare and find a job on their own. (31% agree.)

**GROUPS SUPPORTING FAIR LABOR STANDARDS ACT
COVERAGE FOR WORKFARE PARTICIPANTS**

A. Philip Randolph Institute
ACORN
Americans for Democratic Action
American Friends Service Committee
American Jewish Congress
Black Women's Agenda, Inc.
Bread for the World
Business and Professional Women/USA
Catholic Charities USA
Center for Community Change
Center for Law and Social Policy
Center for Women's Policy Studies
Center on Budget and Policy Priorities
Chicago Commons Employment and Training Center
Chicago Jobs Council
Child Care Action Campaign
Church Women United
Clearinghouse on Women's Issues
Coalition on Human Needs
Commission for Women's Equity
Day Care Action Council of Illinois
Disability Rights Education and Defense Fund, Inc.
Feminist Majority
Hadassah
Illinois Hunger Coalition
INET for Women
Korean Immigrant Workers Advocates
Labor Project for Working Families
Leadership Conference on Civil Rights
League of Women Voters of Illinois
Lutheran Services in America
Mexican American Legal Defense and Education Fund, Inc.
Mid America Institute on Poverty
Migrant Legal Action Program
NAACP Legal Defense and Education Fund, Inc.
NAACP, Washington Bureau
National Association of Social Workers
9 to 5, National Association of Working Women
National Center for the Early Childhood Workforce
National Committee on Pay Equity
National Council of Jewish Women
National Council of Negro Women, Inc.

National Employment Law Project
National Hispana Leadership Institute
National Law Center for Homelessness
National Organization for Women
National Women's Conference
National Women's Law Center
NETWORK: A National Catholic Social Justice Lobby
New Girl Times
NOW Legal Defense and Education Fund
Poverty Law Project
Public Education and Policy Project
The Welfare Law Center
United Church of Christ, Office for Church in Society
Wider Opportunities for Women
Women Employed Institute
Women Work! The National Network for Women's Employment
Women's Legal Defense Fund

What They're Saying . . .

"As employers, Lutheran Services in America organizations face the same issues that every non-profit and corporate employer in America does by having to work within a budget and provide services to its clientele. But, we also believe that workfare recipients perform important work that should be valued fairly and covered by the Fair Labor Standards Act. We in Lutheran Services America challenge other employers to join us to be involved and become responsible in the opportunities we give workers."

-- Rev. Faye R. Coddling
Lutheran Services in America,
employer at nursing homes and child care centers

"The National Association of Service and Conservation Corps' 120 member corps across the country historically have employed welfare recipients to perform work for the benefit of their communities. Traditionally, Youth Corps have paid at least the minimum wage to everyone who has worked for them, regardless of their status as recipients of public benefits. We applaud the Clinton Administration for reaffirming this policy for all employers."

-- Kathleen Selz, President
National Association of Service and Conservation Corps

"If our commitment to help those struggling to escape poverty is real, then we must be vigilant in ensuring that the protections so critical to the success of other workers are also available to welfare recipients. The Leadership Conference believes that we must stand firm in our commitment to uphold basic employment protections for all individuals, particularly those most vulnerable. Ensuring that low-income individuals are protected against sub-minimum wages, inhumane working conditions, exploitation, and discrimination is only one piece of a larger, more fundamental struggle to help low-income families chart an escape path from poverty to financial independence."

-- Wade Henderson, Executive Director
Leadership Conference on Civil Rights

"Research indicates that the TANF [Temporary Assistance for Needy Families or 'Workfare'] program must include worker protections if we expect women to move from welfare to self-sufficiency. Simply providing jobs for welfare mothers will not enable them and their families to get out of poverty."

-- Institute for Women's Policy Research

What They're Saying . . .

"I applaud the President in his decision to apply labor standards, most notably the minimum wage, to welfare recipients required to return to the job market. Welfare recipients put to work are entitled to the same benefits as any other worker. To pay them less than a minimum wage is unconscionable."

-- Sharon Sayles Belton
Mayor of Minneapolis

"I have introduced legislation which would require that welfare recipients in work assignments in California have the same rights as other workers on job sites, including, first and foremost the right to receive at least the minimum wage. I strongly believe this is the best policy for California and for the nation. The Clinton Administration is to be congratulated for concluding that the Fair Labor Standards Act protects welfare recipients."

-- Antonio Villaraigosa
Majority Leader
California State Assembly

"While Workfare may be helpful in introducing some welfare recipients to the demands of the workplace, without job rights participants could all too easily be exploited. Treating Workfare participants differently from other employees would send the wrong message. It tells them and their potential employers they should not be viewed as members of the workforce. In contrast, treating Workfare participants as employees, with the rights and protections due employees, will help integrate them into the workforce and motivate them to develop and advance on the job."

-- Illinois State Representatives
Carol Ronen, Constance Howard,
Larry McKeon, Louis Lang,
Michael Smith, Kevin McCarthy,
Rosemary Mulligan, Michael Giglio,
Angelo "Skip" Saviano, Janice Schakowsky,
Larry Woolard, Steve Davis,
Arthur Turner, Mike Bost,
Lou Jones, Shirley Jones,
Miguel Santiago and Charles Morrow

Polling Data:

Minimum Wage Coverage For Workfare Recipients

Peter D. Hart Research Associates conducted a national voter survey, June 6-9, that included questions on extending minimum wage and other workplace legal protections to welfare recipients in workfare programs. Key findings include:

- **Strong voter support for minimum wage coverage.** The survey results reveal that voters strongly believe that minimum wage laws and other basic legal protections should apply to those in state workfare programs.
 - Fully 69 percent agree that workfare participants should be covered, while just 25 percent believe that states should not have to pay participants the minimum wage.
 - The breadth of support for minimum wage coverage is also striking, including two-thirds of those with incomes over \$50,000 (67%), professionals (67%), and white voters (67%). Even college educated men (71%) and Republican voters (62%) favor minimum wage coverage by large margins.
- **Voters are concerned about wage impacts.** By a decisive two-to-one margin (59%-31%), voters agree that workfare participants should be covered by minimum wage and other basic workplace protections to prevent the corrosive effect that sub-minimum workfare protections could have on the jobs and wages of low-wage workers *outside* of workfare programs. These margins occur *despite* a powerful opposition case that focuses on the cost of coverage to taxpayers.
 - 59 percent agree with the statement that many current minimum-wage employees would lose their jobs if workfare participants could be forced to work for less; and that exempting one group of workers from minimum-wage protections opens the door to undermining the minimum wage for others.
 - 31 percent agree with the statement that taxpayers would have to support higher welfare budgets if states are forced to pay the minimum wage; and that welfare recipients who want better pay should get off welfare and find a job on their own.

G.O.P. in House Moves to Bar Minimum Wage for Workfare

By ROBERT PEAR

WASHINGTON, June 11 — Republicans in Congress moved today to make sure that tens of thousands of welfare recipients would not be covered by the minimum wage.

The Republicans said they intended to overturn a recent ruling by President Clinton that guarantees the minimum wage for welfare recipients participating in "workfare" programs run by public agencies or nonprofit organizations.

A proposal to exempt such welfare recipients from the minimum wage is included in budget legislation moving through Congress this week. Welfare recipients working at low-wage jobs in private industry would still be covered.

By a party-line vote of 25 to 19, the House Committee on Education and the Work Force decided today that the minimum wage should not apply to welfare recipients in state workfare programs. The House Ways and Means Committee reached a similar conclusion on Tuesday night, by a vote of 22 to 16.

The issue generated passionate debate. Representative William L. Clay of Missouri, the ranking Democrat on the Education Committee, said the Republicans' desire to pay sub-minimum wages to workfare participants "reminds me of slavery's cruel exploitation of human labor."

Representative Matthew G. Martinez, Democrat of California, said, "The minimum wage is a moral question, just as much as slavery was a moral question."

Liberals like Representative Richard A. Gephardt of Missouri, the minority leader, denounced the Republican plan. So did moderate Democrats like Representative Tim Roemer of Indiana, who voted for the welfare bill last year.

"The Republican proposal rips the heart out of the minimum wage," Mr. Roemer said.

Republicans countered with the argument that workfare was not true employment. Representative David M. McIntosh of Indiana said workfare provided welfare recipients with "an opportunity to learn the habits and skills needed for work in the private sector."

Representative James M. Talent, Republican of Missouri, said workfare participants often got a package of cash benefits, food stamps, Medicaid, child care and housing subsidies worth far more than they could earn by working 20 or 30 hours a week at the minimum wage. The minimum wage, now \$4.75 an hour, is scheduled to rise to \$5.15 on Sept. 1.

People in workfare programs work, for example, as street cleaners, file clerks, library aides and

Republican of New Jersey, said workfare was "a very cost-effective form of training." To require the minimum wage, Ms. Roukema said, would "put an untenable burden on governors" as they try to move people from welfare to work.

Governors of both parties have objected to the Clinton Administration's decision, saying it sharply increases the cost of work programs for welfare recipients.

Mr. Talent said a minimum wage requirement would make workfare prohibitively expensive for many states. The welfare law imposes stringent work requirements on welfare recipients.

"If we increase the cost of community service jobs, it will undermine the work requirements," he said. "Welfare recipients will never get from dependency to self-sufficiency."

The Education Committee today

A 'moral question,' or a 'cost-effective form of training'?

also drafted legislation to help small businesses band together and buy health insurance for their employees at reduced rates.

Under this proposal, national trade associations could offer health insurance to their members, including small-business owners, farmers and restaurateurs. Such group health plans could be exempted from state insurance regulation.

Representative Harris W. Fawell, Republican of Illinois, said: "Over 80 percent of all uninsured children are in families with working parents. Nearly two-thirds of these parents work for small businesses, which, under our bill, will gain more access to affordable health coverage."

The White House expressed "strong opposition" to the proposal. Franklin D. Raines, director of the Office of Management and Budget, said the bill would leave consumers without meaningful protection if their health plans ran short of money to pay claims or improperly denied claims.

Mary Nell Lehnhard, a senior vice president of the Blue Cross and Blue Shield Association, said the new insurance-buying groups proposed by Mr. Fawell would destabilize the insurance market by siphoning off millions of healthy workers whose premiums could otherwise subsidize

Can States Afford to Pay the Minimum Wage to Welfare-to-Work Participants?

Some have argued that applying basic labor law protections to welfare-to-work recipients is too expensive. This argument is both false and misleading. First, the range of options available to the states and the current block grant levels combine to assure that every state can meet the laws' requirements. In fact, every state but Mississippi could afford to pay the minimum wage to all participants even if none of the education and training options, which because they are not work do not require the payment of wages, were used. Second, it is just plain wrong to argue that we can successfully encourage a transition from dependency to self-sufficiency if we do not afford program participants protections afforded to every other American worker.

STATES HAVE PROGRAM FLEXIBILITY AND BUDGET SURPLUSES

- States have 13 options for meeting work requirements, many of which are activities that would most likely NOT be covered by the FLSA coverage, such as job readiness training, or time in vocational-education, and fulfilling high school. Minimum wage standards will have no effect on the cost of these options and these programs will be more suited to the particular needs of many welfare recipients.
- Although federal requirements for hours-of-work increase over time, the range of options for meeting these work requirements also expand.
- States have significant flexibility about how to meet work requirements. They can limit the numbers of people in workfare without cutting off aid (e.g., by age of kids, opt-out of 2 month community service option, waiver from food stamp work requirement to relieve pressure of finding so many "slots").
- Some states are already very far along in meeting the initial work requirements (NY already relies heavily on vocational education; Illinois and Pennsylvania may already meet their first year work requirements without having to place more recipients).

WELFARE TO WORK CAN ONLY WORK WHEN WORK IS HONORED

- The most important goal of welfare-to-work policy -- placing former welfare recipients in unsubsidized, private sector jobs -- will be encouraged by increasing the standards required under other options. Employee protections are a positive incentive for states to pursue comprehensive reform.
- The whole point of welfare reform is reduced welfare dependency. The key to reduced dependency is living-wage work and skill development.
- Any Congressional action to reverse the Administration's position would run counter to every legislative effort to reform welfare by expanding work. Since the original Social Security Act, federal policy has acknowledged that pressure to enforce work must also include pressure to raise living standards through fair payment. Many federal programs (WPA, CWTP, CETA) required prevailing wage payments, not just minimum wage.
- If states cannot meet the competing demands of creating jobs, defending living standards, and protecting state budgets, the Department of Health and Human Services has the power to grant additional flexibility under "reasonable cause" exemptions.

BACKGROUND STATISTICS ON THE IMPACT OF MINIMUM WAGE REQUIREMENTS

- The new welfare law requires states to have 25 percent of their caseloads in work-related activities for 20 hours a week this year. Any estimates of the impact of minimum wage coverage must acknowledge that (1) not all work activities will be covered by the minimum wage, (2) not all welfare recipients have to be in work, and (3) not all recipients will be forced to work full time. These realities make detailed estimates difficult.

- The Center on Law and Social Policy has estimated that only one state (Mississippi) would be unable to conform with the welfare law's current work requirements without increasing benefit levels if food stamps are included in the calculation of earnings. This is already allowable under the Food Stamps Workfare program, a program which also includes minimum wage requirements.
- Minimum wage requirements could easily be met by employers involved in workfare programs. The median state grant of \$383 means that in more than half of the states employers would only have to pay 70 cents an hour or less to meet FLSA requirements.
- State grants under the Temporary Assistance for Needy Families program (TANF) are set at 1994 levels, but caseloads have fallen. States receive funding for 5.0 million families, but current caseloads are only 4.1 million. The difference between funding and caseloads will make it easier for states to comply.
- The Urban Institute reports that even in 1994, before the welfare law passed, 23 percent of all adults receiving welfare were engaged in work activities or training that may be allowable under TANF work requirements.

WHAT THIS MEANS FOR EMPLOYEES

- Without FLSA coverage, workers sitting right next to each other doing exactly the same tasks will see that one is getting at least the minimum wage and the other is not. Acknowledging the employee status of workfare participants is key to promoting workplace acceptance.
- If the intent of welfare reform is to get welfare recipients into the real world of work, then they should experience the real world of work; if we want them to be able to support their own families off of welfare, they should be working at jobs that pay at least the minimum wage.
- Without FLSA coverage, employers will have incentives to fill positions with much cheaper welfare recipients rather than "regular" workers, degrading the entire lower end of the labor market in the process. In Mississippi, for example, a workfare worker working the required 20 hours a week would earn the equivalent of only \$1.50 an hour for their grant.

WHAT THIS MEANS FOR EMPLOYERS

- Without FLSA coverage, employers could hire welfare recipients for free, even if their welfare grant divided by the hours worked were less than the minimum wage. With FLSA coverage, employers would have to at least chip in the extra on top of the grant subsidy to come up to the minimum wage (see estimate above).
- Employers will still enjoy heavily subsidized workers through workfare and tax breaks.
- When the public supported welfare reform, we don't believe they intended welfare reform to provide free labor for businesses.
- In some states, private businesses can get tax breaks on top of the subsidized labor so that they have heavy incentives to displace current workers or create short-term positions solely to take advantage of low-cost labor.

AFL-CIO Public Policy Department

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The Washington Post

AN INDEPENDENT NEWSPAPER

Wages of Welfare Reform

THE PRESIDENT was right to order that welfare recipients put to work under the terms of last year's welfare bill be paid the minimum wage. The objecting governors and other critics are likewise right when they say that his decision will throw the bill even further out of whack than it already was. What the president basically proved in doing the right thing on the wage was how great a mistake he made in caving in to election-year pressures, some of them of his own making, and signing the bill to begin with.

The problem with the welfare part of this legislation—as distinct from the gratuitous cuts that it also imposed in other programs for the poor—is the mismatch that exists between its commands and the resources it provides to carry them out. The basic command is that welfare recipients work, but that's not something that can be achieved by the snap of a finger or the waving of a wand or it would have happened long ago. A lot of welfare recipients aren't capable of holding down jobs without an enormous amount of support. Nor, in many cases, are there jobs enough in the private sector to accommodate them even if they could hold them down.

The cost to the states of putting to work as many recipients as the bill requires was already going to be greater over time than the fixed funding in the bill. The minimum wage decision will only add to the cost; hence the squawk from the governors. But it's not the decision that was wrong. Welfare recipients put to work are no less entitled to the protections of the wage and hour laws than other

workers. To pay them less would also be to undercut the wages of other workers with whom they will now compete for low-paying jobs. That was a major part of the argument organized labor used in pushing for the order. Wages in that part of the economy are already too low to support a family, and income inequality in the country generally is too great.

The law requires that increasing percentages of welfare recipients work each year. States that fail to meet the targets risk loss of some of their federal funds. The number of hours a recipient must work to qualify also increases. Twenty hours a week will be enough at first, but eventually that will rise to 30. For now, the way the president's order is written, most states will be able to put recipients to work themselves, or pay private employers to do so, for about the amount of a monthly welfare check. But over time that will cease to be true; a welfare check that will pay for 20 hours at the minimum wage won't cover 30.

The state will have to come up with the difference. Or it will have to start lopping people off the rolls for other reasons. The bill gives states power to do that, too, and that's what welfare advocacy groups fear may happen in states whose low benefits won't cover all the hours the bill requires. Back to the mismatch: The bill requires more than it pays for. As with the other flaws in this misbegotten legislation, sooner or later this one needs to be fixed, or a lot of vulnerable people including children badly in need of help are going to end up harmed instead.

France Reaps Its Reward

FOR SOME time now, a debate has raged about the efficacy of linking trade and politics in relations with China. Some say you can use one to achieve results in the other; others argue that business is business and let's keep human rights out of it. An event in Beijing on Thursday should settle the matter: You can use trade to influence political relationships.

Unfortunately, the example at hand involves China's using trade to get its way, not the other way around. A month ago, France helped make sure that the United Nations Human Rights Commission wouldn't even discuss China's dismal hu-

man rights. China notes France has made a wise decision," President Jiang Zemin said, according to a spokesman. Of course, there's no need for Americans to get too high and mighty about such French behavior. This country, too, has made its opportunistic deals.

Nevertheless we were reading about Mr. Chirac's salute to China—which "will be one of the top nations of the world," and which "must be one of our main partners"—at the same time we happened to be reading about Wei Jingsheng. Mr. Wei is a brave dissident, one of thousands in Chinese

Paid in full

There's a strange double standard applied to people on welfare. They are considered second-class citizens, even when it comes to work.

The effort to force people off welfare through a host of reforms has gained momentum, and recipients are being given time limits and other requirements aimed at getting them trained and working.

But some people want more. They think that welfare recipients who go to work shouldn't be paid the minimum wage.

That doesn't make sense, and the White House knows it. It agreed that most of the recipients being placed in work programs should be covered by the minimum wage law.

That didn't sit well with governors of both parties or the authors of the welfare reform law, who said the move would vastly increase the cost of running work programs and leave most states unable to enroll the required number of recipients. They'd rather pay them less than what is already a low wage.

Previous welfare laws explicitly outlined when minimum wage laws applied, but the new legislation does not. That left the door

open to interpretation.

Labor leaders insisted that welfare recipients are covered by the Fair Labor Standards Act, which requires the minimum wage in most cases, and after months of study, the White House agreed.

Public employee unions have opposed welfare programs in part because of concerns about worker displacement. The fear was that local governments would be less likely to hire union members to sweep streets if welfare participants could be forced to do the same work at much lower rates.

Paying the minimum wage to welfare participants should not be an issue. If the goal is to get them into the workforce and keep them there, it makes sense that they should not be paid second-class wages. Those who believe that the minimum wage somehow subverts welfare reform ought to reassess their position.

At a time when the safety net is threatened, it is particularly foolish to eliminate a class of nonworking poor only to create a class of serfs.

Newsday
EDITORIALS

"Where there is no vision, the people perish."

DAVID M. A. JANSSEN
Publisher, President and CEO

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CAROL B. RICHARDS, Deputy Editor of the Editorial Pages

Workfare Wages

Paying minimum wage makes sense; welfare clients already get that much in grants.

During the supercharged debate over welfare reform, the politicians said time and again that the point was to end dependency and instill in recipients respect for the value of work. Now the White House has agreed with the U.S. Labor Department that welfare beneficiaries in work programs are perform-

ing a service in exchange for income — so by definition, they are covered by the Fair Labor Standards Act and must be paid the minimum wage. That is as it should be.

The governors who lobbied so hard for welfare revision boasted that they could move welfare recipients into private sector

jobs. To the extent they succeed, a debate over paying minimum wage is moot: Private employers must pay it. Besides, those in education and training programs would be exempted.

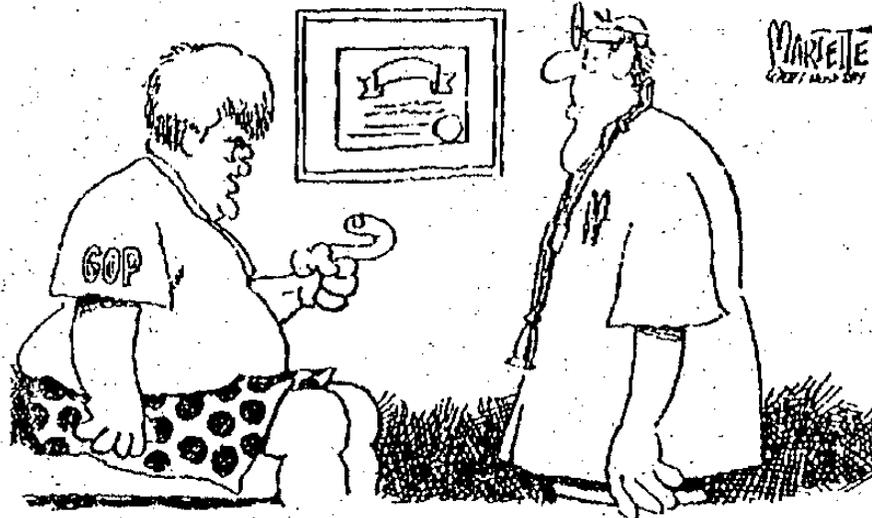
The controversy arises over what to do about recipients who are working for local or state governments, performing tasks like cleaning parks or providing clerical help.

The governors and others who complain about costs have a weak case: The minimum wage is itself so low that in all the states but Mississippi, welfare benefits plus food stamps already equal or exceed what the minimum wage would pay a welfare worker for the required 20-hour week. Costs will rise over time as more hours of work are required, and after the minimum wage rises to \$5.15 in October. Even then, however, a 30-hour-a-week welfare worker would be paid \$8,024 a year — \$4,000 less than the poverty level for a family of three.

The issue does get more complicated when other modifications are explored. The Treasury Department, for example, is researching whether there are implications for payment of Social Security and unemployment taxes. None of these intricacies was thought through in the political rush to enact welfare revision last year. Now they must be.

Paying the minimum wage is the right thing to do economically and philosophically. There already is enough downward pressure on wages among those on the lowest rungs without creating a new pool of subminimum workers to pull wage rates down further. And besides, if government wants welfare recipients to start thinking and acting like workers, it must treat them as workers, too.

MARLETTE'S VIEW



"IT HAPPENS EVERY TIME I POINT AT THE DEMOCRATS!"

Vallone's NYPD Audit Board Deserves Support

Who's going to watch the officers who watch the officers? In 1994, the Molloy commission board all his own — composed solely of his appointees — and he kept Vallone in mind about Vallone's new proposal, they haven't yet cut loose with the heavy duty to conduct

Today's debate: WELFARE REFORM

Rush to workfare costs jobs of working poor

OUR VIEW Welfare laws need to be fine-tuned; they're hurting those most vulnerable to job loss.

Schools in Baltimore are bringing in welfare recipients to do janitorial work at \$1.50 an hour, less than one-third the minimum wage, rather than renew contracts with agencies that supplied custodians at \$6 an hour. The new workers continue to receive federally financed welfare benefits, at no cost to the schools.

It's a sweet deal for the money-short schools and useful work experience for people who soon must get off welfare. But what about those janitors who were displaced? How many are unemployed and candidates for the welfare rolls?

As Washington and the states push welfare recipients to work, they've created a way for employers, public and private, to replace regular employees with cheaper labor. The losers are folks who had stayed off welfare with low-income work. They're vulnerable to reduced hours, disappearing jobs and lesser wages and benefits.

A Jersey City, N.J., hospital is cutting full-time aides while hiring people on welfare as "volunteers" to do the same work.

In Nassau County, N.Y., a custodian laid off in 1992 and ultimately forced onto welfare returned to the same job last year — but as a welfare "trainee" at lower pay, no benefits and no vacation.

No one has yet quantified the problem. But the vulnerable population is large: 38 million working poor who at \$7.50 an hour or less often have no health insurance. And even with the economy thriving, most states are short of the low-wage, low-skill jobs that the working poor hold and welfare recipients need. Yet welfare reform requires that by the turn of the century, nearly 50% of all adults getting welfare assistance — 4 million people — must spend at least 30 hours a week in some sort of work.

The law bars employers from firing existing workers to hire welfare recipients whose compensation is subsidized by the state. But its intent can be defeated by re-

The job gap

State studies document the challenge of placing welfare recipients in jobs:

California: More than 1 million people have to be moved into a job market where 2 million people not on welfare are already looking for work and another half-million part-timers want more work. State's economy is growing by only 300,000 jobs a year.

New York: 1.2 million potential job seekers, including adults on welfare, for 242,000 job openings.

Maryland: Of 44,000 new jobs created in 1994, more than 38,000 were high technology or professional work requiring college degree or better. Yet work must be found for 79,000 welfare recipients.

Minnesota: Ratio of job seekers to job openings is 2.7-1; for jobs with a "livable wage," 6-1.

ducing hours, wages or benefits for existing workers or terminating outside contracts; workfare recipients can then fill vacancies.

Backers of the 1996 welfare reform minimize the problem. They fear a backlash could reverse momentum running their way. On the other side, unions trumpet scare stories, not research. But anecdotal evidence is accumulating. In addition to subtle and overt job displacement, employers from Salt Lake City to Richmond, Va., report the flow of welfare recipients into the workforce is helping keep pay rates down.

And when the inevitable economic slowdown arrives, with shrinkage in low-income jobs, the situation is likely to resemble a nasty game of musical chairs with far more players than wage-paying seats.

Welfare reform was long overdue. But the 1996 law, driven by simplistic budget-cutting politics, did little to spur the job growth needed to deal with underlying poverty and lack of opportunity. President Clinton wants to spend \$3 billion for job-training grants and tax breaks to employers who hire welfare recipients. First, some spade work is needed. Moving welfare recipients to work is a fine objective. But throwing the working poor out on the street is an unacceptable price.

Reform that risks throwing the working poor out of work and onto the welfare rolls is not worthy of the name.

The Philadelphia Inquirer

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A14

Wednesday, April 2, 1997

EDITORIALS

Money for hire

Use Pa.'s surplus to create public-service jobs.

Mayor Rendell commiserated Monday with other mayors over the burdens of the new welfare law. He urged a federal jobs program for the millions nationwide who will be forced off the rolls.

Mr. Rendell is right. It was irresponsible of Congress to pass, and President Clinton to sign, a welfare plan that did little to create jobs for folks who'll lose their benefits.

Some states aren't in good shape to bankroll a jobs program.

In New Jersey, for example, Gov. Whitman already is resorting to budget gimmickry to close a deficit and to fund the state pension system. But in Pennsylvania, which expects a surplus of more than \$300 million when the budget year ends June 30, a jobs initiative is doable.

A coalition of labor unions, community groups and religious organizations has come together to support a \$135 million jobs plan by State Sen. Vincent J. Hughes (D., Phila.).

In Republican-dominated Harrisburg, this Democratic plan is going nowhere fast. But it could spur debate and prepare the ground for a bipartisan jobs bill.

Sen. Hughes' bill would create 10,000 full-time jobs statewide, ranging from boarding up abandoned

homes to cleaning up parks. The workers would get \$6 an hour, or the "prevailing wage," if that's higher.

The pay would be set substantially above the minimum wage — \$4.75 an hour — partly to calm concerns that such a jobs program would push down the wages of other low-paid workers. That's no small issue — given the widening gap between low-income and high-earning Americans.

Still, there are compelling arguments for putting these public-service jobs at or close to the minimum wage. Such jobs are a first step out of dependency for people who can't find work in the private sector. Why should government, acting as the employer of last resort, pay more than private companies offer their least-skilled employees?

This level of pay would give ex-welfare recipients an incentive to strive toward better jobs, in turn opening up slots for other low-skilled people. Also, since money for a jobs program isn't unlimited, keeping pay low allows more jobs to be created.

"Most workers in the inner city are ready, willing, able and anxious to hold a steady job," wrote sociologist William Julius Wilson last year. Yes. And government must do more to help prove him right.



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Brian Komar

May 15, 1997

President William J. Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Welfare Reform and Civil Rights Enforcement

Dear President Clinton:

On behalf of the 180 national organizations that comprise the Leadership Conference on Civil Rights, the nation's oldest and most broadly-based civil rights coalition, we write to request your assistance in making the civil rights and economic security of low-income individuals and families a higher national priority, as states implement the recently-enacted **Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)**.

The Leadership Conference believes that real welfare reform must remain true to fundamental principles of equality, fairness, and social justice while increasing the chances for all families in need to become economically independent. The changes required by the PRWORA create new challenges -- and new risks -- to upholding these fundamental principles.

New Threats of Discrimination Targeted at Low-Income Families

The PRWORA creates perverse new incentives for states to deny assistance to needy families and act in discriminatory ways, thus, erecting new hazards for individuals who already face discrimination: persons of color, women, people with disabilities, and older people. For example:

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- **With the elimination of the individual entitlement to welfare benefits and services and the lack of clear rules, crucial decisions about who gets benefits, who gets services, and who gets penalized, may be made in arbitrary and discriminatory ways.** For example, as a result of the new legislation states now have wide latitude to use different rules in different geographic areas. As a result, communities with a high concentration of racial or ethnic minorities such as cities may receive lower benefits, fewer services, or be subject to harsher rules and penalties.
- **The harsh new restrictions aimed at legal immigrants will likely worsen discriminatory practices that many ethnic minorities already face.** Individuals who are eligible to participate in a particular welfare program could be shut out simply because they have an accent and are assumed not to be citizens. While the Department of Justice will be issuing guidance on verification of status procedures to providers that distribute federal public benefits, there will be no procedure to monitor the providers and likely no consequence to a provider that discriminates. Others may lose benefits because they are unfamiliar with new welfare program rules and cannot obtain materials in their native language. Still others are already being shunned by employers, or unfairly selected out to produce identification documents, simply because they "look foreign."
- **Early reports suggest that pressure on states to place recipients in jobs and meet strict new work participation requirements may push women, especially women of color, into low wage, stereotyped "women" and "minority" jobs with little training and few prospects for future employment.** States attempting to raise their work participation rates also may "cream" job seekers, i.e., focus more attention on individuals perceived as "more desirable" or the closest to being job-ready, and offer less desirable assignments to minorities, people with disabilities, older workers, pregnant women, immigrants and others who too often lose out on job opportunities, because of discriminatory stereotypes about their abilities.
- **Early reports also suggest that rigid new work participation requirements may discourage states and employers from assessing and accommodating the needs of individuals with disabilities.** A recent study by the Urban Institute found that 16-20 percent of women receiving AFDC (under the old welfare law) reported one or more disabilities that limited their ability to work. But some individuals with disabilities may be unable to comply with the new law's work requirements because their disability has never been identified, assessed, or reasonably accommodated. Moreover, specific provisions in the new law may have discriminatory effects on individuals with disabilities: the twelve month time limit on participation in vocational education, for example, may unfairly impact individuals with learning disabilities who need to enroll in specialized programs of a longer duration.

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- **Increased sexual harassment is a foreseeable problem.** Women are the majority of adult welfare recipients. Given the documented instances of sexual harassment in our society, it is reasonable to assume that some of these women may become victims of harassment in the workplace because they are particularly vulnerable -- i.e. they risk losing vital benefits if they cannot keep their jobs.
- **Children may be penalized unfairly by welfare reform simply because of the circumstances of their birth; i.e. because their parents were unmarried, or young, or immigrants.** As a result, the new law will take benefits away from children who otherwise would receive them under the old AFDC program and who now desperately need them.

Recommendations

Welfare reform should not mean a loss of civil rights protection. Moreover, devolution of power to the states cannot and must not mean the abandonment of the federal government's responsibility to provide basic civil rights protections for low-income individuals and families. The new welfare law does not modify the many civil rights laws that protect against discrimination, nor does it alter the federal government's continuing obligation to enforce such laws. In this changed environment, the role of your Administration will be critical. We urge the Administration to:

1. **Vigorously enforce the laws prohibiting discrimination in federally funded programs, including those specifically listed in the legislation and Title IX of the Education Amendments of 1972, as part of welfare implementation.** As the recent U.S. Commission on Civil Rights report, *Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs* (June 1996) concluded, there has been a history of under enforcement of Title VI, especially in the context of block grant programs. Given the heightened potential for discriminatory practices under the PRWORA, the federal government must develop new strategies to detect and challenge discrimination, and better coordinate its enforcement efforts.
2. **As states submit, amend and expand their state plans, the federal government should require specific information about the "objective criteria" states will use to determine eligibility; how they will assure "fair and equitable treatment;" and how they will provide welfare recipients an opportunity to be heard as required by the PRWORA.** The Department of Health and Human Services does not have the authority to disapprove state plans, but it does have the responsibility to determine whether the plans are complete. Requiring states, as they submit their plans in future years, to articulate the standards and procedures they intend to follow is critical to prevent arbitrary and discriminatory decision-

making at both the level of individual benefit determinations as well as the level of state-wide implementation. For example, if the state plan proposed differences in treatment for predominantly minority urban areas and predominantly white suburban areas, potential violations of Title VI could be identified and deterred.

3. **Vigorously enforce other civil rights and labor laws on behalf of welfare recipients, including Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Fair Labor Standards Act, the Americans With Disabilities Act and Section 504 of the Rehabilitation Act, the Immigration Reform and Control Act, and the Family and Medical Leave Act.** Welfare recipients, whose families' access to subsistence benefits hinges on their ability to get and keep jobs, will be easy and vulnerable targets for discrimination. They are entitled to the same protections against discrimination, unsafe working conditions, and exploitive pay as other workers. And enforcing the law on their behalf protects all workers, by reducing the incentive to replace current employees with cheaper and more exploitable labor.
4. **Ensure that states comply with the requirements of the PRWORA to maintain assistance to single recipients who cannot obtain child care for a child under six years old, and maintain Medicaid coverage for eligible families.** The Administration should ensure that states comply with the law's provision protecting families with children under six from being penalized if lack of child care prevents them from accepting a work assignment by requiring states to conduct case reviews of a sample drawn from families that have been sanctioned.
5. **Work to repeal the provisions of the PRWORA that severely limit the eligibility of legal immigrants and refugees for a wide variety of federal benefit programs, and to address the inadequacies of the naturalization process.** The provisions of the PRWORA related to legal immigrants are blatantly discriminatory in that they treat foreign-born individuals differently than those who are born in the United States, denying them benefits until they have become naturalized citizens regardless of whether they work and pay taxes to the United States government. These provisions have a particularly discriminatory impact on elderly and disabled immigrants, many of whom are unable to fulfill the English language and civics requirements for naturalization or to take a meaningful oath of allegiance and therefore will remain permanently ineligible for Supplemental Security Income and Food Stamps.

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We also urge efforts to allow legal immigrants to continue to receive assistance while they are in the naturalization process, to waive the English language and civics requirements for an expanded class of elderly immigrants, and to allow individuals who are too disabled to naturalize to continue to receive federal benefits.

In addition to challenging discriminatory practices at the state level, we urge the Administration to work diligently at the federal level to remedy the harshest effects of the new law. The Administration has begun some of this work, but there is more to do. For example, we support proposals in the Administration's budget to mitigate the new law's hardships for the most vulnerable legal immigrants, people with disabilities and children. But the far-reaching impact of the new law -- almost all noncitizens are no longer eligible for SSI and Food Stamp benefits, and new immigrants will be barred from federal means-tested benefit programs for five years -- will require the Administration to take more steps to restore the status of legal immigrants as full and equal members of American society.

We strongly urge the Administration to take advantage of any flexibility permitted under the new law to minimize its negative consequences. For example, the PRWORA targeted the SSI Childhood Disability program for cuts, and required the Social Security Administration to develop a new definition of childhood disability. Unfortunately, the Social Security Administration failed to take advantage of the statute's flexibility, and has issued unnecessarily harsh interim final regulations. If these regulations are not changed, they are likely to disqualify at least 135,000 children with significant impairments, and to fall especially heavily on children with mental retardation or mental health problems.

Restricting children's eligibility for the SSI Childhood Disability Program will also restrict their eligibility for Medicaid. Most children who qualify for SSI are automatically eligible for Medicaid; thus, children who fail to meet the new restrictive definitions for SSI eligibility lose this automatic coverage. Some will qualify for Medicaid on other grounds; others, however, will not. We commend the Administration for proposing to continue Medicaid coverage for children currently receiving SSI, who are disqualified under the new rules defining childhood disability. However, this proposal only helps current recipients. It will not ensure Medicaid coverage for children who would have qualified for SSI, and thus Medicaid, under the former rules, but cannot meet the stringent new standards.

New Barriers to Economic Security Facing Low-Income Families

Ensuring that low-income individuals are protected from discrimination is only one piece of a larger, more fundamental struggle to help low-income families chart an escape path from poverty to financial independence. The new law ignores many of the specific barriers -- such as the lack of

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livable wage jobs, transportation, health care, child care, domestic violence counseling, and limited access to quality education and job training programs -- that make it difficult for low-income individuals to move permanently from welfare to work. Many welfare recipients, for example, are being forced to drop out of school and take "dead-end" jobs even though completing their education may be the only way they can get jobs to support themselves and their families.

The welfare to work initiatives included in the budget may mean more funding to help individuals get jobs, but it is unclear what these initiatives will be and how much funding will be available. Even the original budget proposal -- \$3.6 billion allocated over five years -- is not enough to meet the needs of all of those who must find work. **We urge you to pursue meaningful and much-needed reforms, and seek additional funds to: (1) create new jobs that pay decent wages; (2) expand access to education and job training so that welfare recipients can be better prepared for the workplace; and (3) provide necessary support services, such as child care, health care, domestic violence counseling, and transportation costs, that welfare recipients need to go to work.** Without such reforms, welfare recipients will be pitted against, or simply displace, other low-wage workers as they vie for an inadequate supply of jobs and compete for ever-dwindling support services.

This Administration has distinguished itself by standing firm in its commitment to uphold basic civil rights protections for all individuals. We urge you to make the promise of our civil rights laws a reality for all individuals, particularly those most vulnerable, by making civil rights enforcement a top priority as the new welfare law is implemented. And, we urge you to go even further, by working to restore equal treatment for immigrants to this country, a safety net for children and adults with disabilities, and assistance to poor families struggling to achieve financial independence.

Sincerely,

Dr. Dorothy I. Height
Chairperson
Leadership Conference on Civil Rights

Wade Henderson
Executive Director
Leadership Conference on Civil Rights

Horace Deets
Executive Director
American Association of Retired Persons

Jackie DeFazio
President
American Association of University
Women

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May 15, 1997
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Marian Wright Edelman
Founder & President
Children's Defense Fund

Marcia Greenberger
Co-President
National Women's Law Center

Antonia Hernandez
Executive Director
Mexican American Legal Defense &
Educational Fund

Judith L. Lichtman
President
Women's Legal Defense Fund

Paul Marchand
Director
The Arc of the United States

Gerald McEntee
International President
American Federation of State,
County & Municipal Employees

Kweisi Mfume
President & CEO
National Association for the
Advancement of Colored People

Karen Narasaki
Executive Director
National Asian Pacific American
Legal Consortium

Hugh Price
President
National Urban League

Rabbi David Saperstein
Executive Director
Religious Action Center
Union of American Hebrew
Congregations

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Andrew L. Stern
President
Service Employees International Union

Patrisha Wright
Executive Director
Disability Rights Education and Defense
Fund

Stephen P. Yokich
President
International Union, United Automobile
Workers of America

Raul Yzaguirre
President
National Council of La Raza

WOMEN EMPLOYED INSTITUTE

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VOICE 312.782.3902 • FAX 312.782.5249

April 25, 1997

President William J. Clinton
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear President Clinton:

On behalf of hundreds of thousands of women in poverty who will be required to meet the work requirements of Temporary Assistance for Needy Families (TANF) under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, we urge you to support employment protections for participants of "Workfare" and other work-related programs.

Most Workfare programs, which states can create to meet their TANF work requirements, require TANF recipients to work in exchange for their benefits. Unfortunately, TANF does not mention the full range of employment and anti-discrimination laws that can protect Workfare participants from unlawful conduct. Current workers who do not receive TANF are already protected by such employment laws as the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act, the Family and Medical Leave Act and the Occupational Safety and Health Act. Denying Workfare participants similar protections sends the intolerable message that employers need not worry about treating Workfare participants fairly or with dignity and would allow Workfare employers to benefit from the labor of Workfare participants who are trying to support their families.

In a typical Workfare arrangement, employers will get TANF recipients to work for 20 hours per week and perform any work that the employer assigns. The employer will direct the participant's work, supervise the participant, and monitor the participant's progress, but will not be required to pay the participant's wages, provide skill training or commit to hiring the participant permanently. In most cases, the employer's extensive authority to direct and control the participant's work will satisfy the legal tests, such as the "economic realities" test that courts have used to determine whether a worker is covered by a particular employment law.

If employment protections are denied to Workfare participants, then this "make work" program, which is not creating jobs, is punishing recipients. In the absence of basic employment protections, Workfare participants are treated as prisoners who may have to endure discrimination or working in unsafe and hazardous environments or risk being sanctioned and losing their TANF benefits if they do not work under these conditions.

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President William J. Clinton

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In light of TANF's strict work participation requirements and our economy's lack of a sufficient number of entry-level jobs, we must create programs and policies that help women find livable wage jobs that can support women and their families. Unfortunately, many Workfare programs will not advance these goals. Workfare forces participants to work in any job without regard to whether they need additional education, pre-employment or vocational skills training, or whether that job will lead to permanent, unsubsidized employment before their time limited cash assistance expires. But, if states decide to implement Workfare programs, basic employment protections must be extended to program participants.

As you stated in your proclamation for Women's History Month, women are almost an equal share of the labor force, yet gender barriers still exist that must be broken down. Do not allow Workfare to increase the barriers that women on welfare face as they work to become self-sufficient. We count on you to insure that Workfare workers are covered by the same employment protections that our country ensures for the rest of our workforce.

Sincerely,

American Friends Service Committee

American Jewish Congress Commission for Women's Equity

Black Women's Agenda, Inc.

Center for Women Policy Studies

Chicago Commons Employment and Training Center

Chicago Jobs Council

Child Care Action Campaign

Clearinghouse on Women's Issues

Church Women United

Day Care Action Council of Illinois

Hadassah

Illinois Hunger Coalition

INET for Women

League of Women Voters of Chicago

League of Women Voters of Illinois

Mid America Institute on Poverty

National Association of Social Workers

National Center for the Early Childhood Workforce

National Council of Negro Women, Inc.

National Organization for Women

National Women's Conference

For more information:
Maurice Emsellem
National Employment Law Project
(212) 285-3025, ext. 106

WORKFARE PRESS CONTACTS

May 1, 1997

WORKER ACCOUNTS

- General Issues

Kathy Wilkinson (attached press clipping)
Wheeling, West Virginia
(304) 242-7773

Kathy Wilkinson is a single mother with two daughters, ages nine and eleven, from Wheeling, West Virginia. She works two part-time minimum wage jobs at West Virginia Northern Community College -- as a lab assistant and a math tutor. She has an Associate's degree and is currently working toward a Bachelor's Degree in Education. Ms. Wilkinson was actively involved in last year's successful campaign to raise the federal minimum wage. In recognition of her work, she was honored at the minimum wage bill signing ceremony and introduced the President. Ms. Wilkinson is now campaigning for the rights of workfare workers for protection under basic employment laws.

Brenda Stewart (attached affidavit)
Brooklyn, New York
(718) 789-6565

Brenda Stewart, who has two children has been receiving Aid to Families with Dependent Children and Food Stamps since was laid off in 1992 from her job of two years with a community-based organization. Since 1994, Ms. Stewart has been assigned to the New York City workfare program doing extensive clerical work (filing, answering phones, and processing mail) for the Department of Social Services, which are duties equivalent to City employee title "Office Aide III". In return for \$561 a month in benefits, she has worked from 20 to as much as 35 hours a week. She was recommended for a full-time position by her supervisors, which she did not receive, and was instead assigned to train the newly-hired worker.

- Health & Safety

Ralph Tricoche (testimony attached)
Queens, New York
contact: Karen Yau, National Employment Law Project
(212) 285-3025, ext. 109

Ralph Tricoche is a recipient of Home Relief in New York City. Since August 1996, he has been assigned to the Department of Parks and Recreation workfare program for 46 hours every two weeks in return for monthly Home Relief and Food Stamps totaling \$296 a month. In the Parks Department, workfare workers now outnumber regular paid employees by 3 to 1. Among other responsibilities, Mr. Tricoche has raked leaves, removed garbage and swept the grounds. In fulfilling these duties, he has handled contaminated needles, soiled diapers, cloths and underwear, vomit, faces and Kotex. He has trimmed trees and rode on the back of a garbage truck to pick up garbage. He has used a chain-cutter to cut chains in order to replace old garbage cans. He has performed these responsibilities without any training on his health and safety rights.

Mr. Luis Pagan (attached workers' compensation complaint)
Bronx, New York
contact: Karen Yau, National Employment Law Project
(212) 285-3025, ext. 109

Mr. Pagan is a recipient of Home Relief in New York City. In 1995, he was assigned to a workfare placement in the Department of Parks and Recreation. He was seriously injured on April 16, 1996, working in a parks garage. Over his objection, Mr. Pagan was told to go with a truck driver to deliver garbage to a recycling plant. He was told to unjam the garbage container which was stuck with a tree. Mr. Pagan recalled that when he turned the handle of the container, the handle flew against his mouth "like a bullet". His teeth were knocked out of his mouth and he was rendered almost unconscious and taken to the emergency room. Since assigned to workfare, Mr. Pagan has never received any right-to-know health and safety training or any training in the operation of mechanical equipment. Despite his injury, he has been reassigned to workfare in the parks, and he continues to work without required health and safety training.

- **Discrimination**

For examples of disability discrimination in the operation of New York City's workfare program, contact Cathleen Clements, Brooklyn Legal Services (Corp. B), (718) 237-5500.

- **Wage & Hour**

For information on an Ohio court case (Marilyn M.) involving a workfare participant who worked 740 hours extra without "compensation" due to an error in the calculation of her hours, contact Gary Smith, Southeastern Ohio Legal Services (330) 364-7769.

EMPLOYER ACCOUNTS

- Non-Profit Employers

Fay Coddling
Lutheran Services in America, Washington, D.C.
(202) 626-7935

Lutheran Services in American (formerly the Association of Lutheran Social Ministry Organizations) is a national organization with local affiliates that operate social service programs for the poor. Lutheran Services in America is a signatory to the Fair Work Campaign, which is a code of conduct for employers of workfare participants guaranteeing basic worker protections, including the minimum wage, and promoting maximum access to job training and job placement.

- Private-Sector Workfare

Jerry Helmick, United Food & Commercial Workers, Kansas City, Missouri,
(816) 842-4086
Tim Barchak, Service Employees International Union, Local 91, Kansas City, Missouri,
(816) 931-9100

The Tyson Chicken plant in Sedalia, Missouri, a rural area of Missouri, has developed a program with the local Department of Social Services, which is also being promoted in state legislation, to refer welfare recipients to the plant for minimum wage jobs processing chicken parts. If the recipients do not accept the placements, in what are often hazardous jobs, they are automatically sanctioned from their benefits.

Geri Reilly, New York Assembly Labor Committee, Albany, New York, (518) 455-4311
(see attached correspondence)

In August 1996, the calendar-making company, "At-A-Glance" began employing workfare workers referred by a local community-based organization for work regularly performed by the union workforce. As the regular workforce was laid-off in December 1996, the workfare workers stayed on the job until the program was eventually terminated.

NATIONAL ORGANIZATIONS

- Civil Rights Groups

Wade Henderson
Leadership Conference on Civil Rights
Washington, D.C.
(202) 466-3311

Catherine Powell
NAACP Legal Defense & Education Fund
New York, New York
(212) 219-1900

- Women's Groups

Ellen Bravo
9 to 5, National Association of Working Women
Milwaukee, Wisconsin
(414) 274-0928

Jocelyn Frye
Women's Legal Defense Fund
Washington, D.C.
(202) 986-2600

Martha Davis
NOW Legal Defense & Education Fund
New York, New York
(212) 925-6635

Melissa Josephs
Women Employed Institute
Chicago, Illinois
(312) 782-3902

- Fair Work Campaign

Maurice Emsellem
Fair Work Campaign
c/o National Employment Law Project
New York, New York
(212) 285-3025, ext. 106

- Labor Unions

Marc Baldwin
AFL-CIO, Policy Dept.
Washington, D.C.
(202) 637-5202

Marie Monrad
AFSCME, Policy Dept.
Washington, D.C.
(202) 429-1155

Carol Golubock
SEIU, Legal Dept.
Washington, D.C.
(202) 898-3454

- Low-Wage & Immigrant Worker Organizations

Roy Hong
Korean Immigrant Workers Advocates
Los Angeles, California
(213) 738-9050

Maurice Emsellem
National Employment Law Project
New York, New York
(212) 285-3025, ext. 106

- Welfare Advocacy Groups

Henry Freedman
The Welfare Law Center
New York, New York
(212) 633-6967

Steve Savner
Center for Law & Social Policy
Washington, D.C.
(202) 328-5118

Cindy Mann\Steve Berg
Center for Budget & Policy Priorities
Washington, D.C.
(202) 408-1080

- Workfare Organizing Groups

John Kest
ACORN
Brooklyn, New York
(718) 693-6700

Benjamin Dolchin
WEP Workers Together!
c/o Fifth Avenue Committee
(718) 857-2990, ext. 18



Before President Clinton signed legislation raising the minimum wage during a ceremony at the White House yesterday, he spoke with Kathy Wilkison, a minimum-wage worker from Wheeling, W. Va. Her daughters, Lisa and Deborah, sat at right.

Clinton Signs a Bill Raising Minimum Wage by 90 Cents

By RICHARD W. STEVENSON
 WASHINGTON, Aug. 20 — Ending a political battle Democrats had played to their advantage for months, President Clinton signed legislation today raising the minimum wage by 90 cents an hour over the next year, saying the measure would give 10 million workers "a chance to raise stronger families and build better futures."

The increase will raise the minimum wage to \$4.25 an hour, from \$4.25, in two steps, the first being an increase of 50 cents an hour in paychecks effective Oct. 1, a month before Election Day.

Sounding a theme that will be central to his re-election campaign, Mr. Clinton said the increase was part of his Administration's record of improving conditions for working Americans.

"Those 10 million Americans will become part of America's economic success story," Mr. Clinton declared at a ceremony on the South Lawn attended by labor leaders, Vice Pres-

ident Gore and a group of children of minimum-wage workers.

For a full-time worker earning the current minimum, the new law, when fully phased in with a 40-cent-an-hour increase on Sept. 1, 1997, will mean an annual raise of \$1,300 before taxes, to \$10,300.

Mr. Clinton used the occasion to credit his Administration with the creation of 10 million new jobs, a steep reduction in the Federal budget deficit and signs that a long period of wage stagnation is ending. The signing is the first of a series of events this week that he hopes will both burnish his Presidential image and emphasize his campaign message that he is the best protector of the economic interests of average Americans.

Mr. Clinton was also clearly seeking to give himself some political momentum in the days leading up to the Democratic National Convention in Chicago next week. He is scheduled to sign legislation on Wednesday to improve access to health insur-

Sounding a theme for Election Day and seeking political momentum.

ance, and he will sign the bill overhauling the welfare system later in the week, probably on Thursday.

Although the minimum-wage increase was largely the work of Democrats in Congress, the legislation also contained many provisions demanded by Republicans to help small businesses. Several Republican legislators were present at the ceremony. Mr. Clinton did not once mention his Republican challenger, Bob Dole, who as Senate majority leader opposed raising the minimum wage.

But he alluded to his campaign's stinging criticisms of Mr. Dole's plan to slash (except on health care) and other politically sensitive programs.

"A minimum-wage increase, portable health care, pension security, welfare-to-work opportunities... that's a plan that's putting America on the right track," Mr. Clinton said.

"Now we have to press forward," he said, "giving tax cuts for education and child-rearing and child care, buying a first home, finishing that job of balancing the budget without violating our obligations to our parents and our children and the disabled and health care, to education and the environment and to our future."

The Dole campaign issued a statement calling the minimum-wage bill a "helpful but small step toward addressing the economic anxiety of American workers."

"Remember, a tax cut is a raise,

and that is exactly what Bob Dole will give Americans," said Christian Martin, a spokeswoman for the Dole campaign. "Fair tax cuts, a balanced budget and spurred job growth will be the hallmarks of a Dole Administration."

The minimum-wage legislation was among the most hotly debated bills of the current Congress, and one that for months seemed doomed by strong opposition from the Republican majority. Many Republicans argued that raising the minimum wage would destroy jobs by making it too expensive for employers, especially small-business owners, to keep on as many workers.

But the wage increase won overwhelming public support in opinion polls, and Republicans largely gave in after it was tied to a measure offsetting some of the costs to small-business owners, partly through tax breaks valued at \$1 billion over 10 years.

The breaks include more generous provisions for writing off the cost of investments. The provisions also stipulate requirements for small-business pension programs. In addition, it contains an unrelated provision establishing a \$3,000 tax credit for couples who adopt a child.

Kathy Wilkison, a lab assistant and student from Wheeling, W. Va., who is a single parent of two daughters and earns the minimum wage, said at today's signing ceremony that the law would have a "phenomenal" effect on her life.

"It's going to be such a relief to be able to pay the gas and the electric all within one month because I've got that little bit extra in my paycheck," Ms. Wilkison said. "And for my children, both of whom want to be in the school band, I can now afford to put some money away to get them the instruments."



7. No one ever advised me how my hours of WEP participation were calculated.
8. At the Livingston IS Center, Audrey Brow, the WEP supervisor, assigned me to an Undercare Group in the Income Support Center. The Undercare Assistant Office Manager assigned me to do clerical work. My responsibilities included compiling information for various reports, which involves tallying the number of cases processed each day by the caseworkers. I was also responsible for filing papers, answering the phone, and processing incoming and outgoing mail.
9. My work responsibilities as a WEP participant were equivalent to that of a City employee with the title "Office Aide III".
10. In 1995, the office manager changed my duties as a WEP participant. I was to compile information for various reports, but on behalf of many more caseworkers.
11. In August 1995 I heard from co-workers that there were job openings for clerks at IS Centers. I spoke to the office manager about my applying for one of these positions, and she told me my name had been submitted. I also read a memo to directors of IS Centers asking for lists of potential applicants. A copy of that memo is attached hereto as Exhibit B. I was not hired.
12. Instead, I trained the person who was hired for the clerk position in my office. She then took over the responsibility for compiling information for some of the reports I had been doing.
13. In January 1996 I received a letter from a representative of respondent HAMMONS, advising me my hours of WEP participation were increased to 70 hours every two weeks. A copy of that letter is attached hereto as Exhibit C. As a result, I then worked at the Livingston IS Center from 9 AM to 5 PM, 5 days a week, with one hour for lunch, for a total of 35 hours a week.

14. In the spring of 1996, I went to the ninth floor of 250 Church Street, the headquarters of the New York City Human Resources Administration ("HRA"), where I spoke with a Ms. Nelly Perez about the hiring procedure at HRA. She told me that the agency chose names submitted according to the priority that the ISC directors placed them in. She explained that the agency had not gotten to my name on the list and that I would have to wait. After that, I asked two staff members at the Livingston ISC to write letters of recommendation for me to speed along the hiring process. A copy of the two recommendation letters I received are attached hereto as Exhibit D. In June 1996, I received from the Director and Deputy Director of the Livingston ISC a Certificate of Appreciation for outstanding achievement. A copy of that certificate is attached hereto as Exhibit E.

15. Although my family's budget was reduced in May 1996 to reflect to removal of my husband from the budget, my work hours not reduced at that time. My WEP supervisor, Audrey Brown, told me I need to wait until my case was reclassified to reflect my husband's absence from the household to see if my hours would be reduced.

16. If the work I was performing at that time had been done by a paid City employee, it would have been compensated at a significantly higher rate. On information and belief, an Office Aide III would be paid no less than \$8.50 an hour.

17. As I was working in essentially the same position for approximately two years, it seemed unlikely that my WEP assignment would lead to full-time employment with the City.

18. If my hours of WEP participation had been reduced I could have taken refresher courses in computers and sought employment in that field. I took several computer courses in the past and did very well in them, including being the salutatorian of my class at Crown Business Institute.

19. Since I was required to be at work from 9 AM to 5 PM, 5 days a week, it was extremely difficult for me to pursue other employment opportunities.

20. On or about August 12, 1996, I was told that my name had been removed from the WEP roster at the Livingston ISC. No one at the center or at OES was able to explain to me why my name had been removed. A supervisor at OES told me that I would get a letter from the BEGIN program, but he did not tell me what the letter would say and he did not know when I would get the letter.

21. In November 1996, I received a letter calling me in to the BEGIN program on November 25. I went to the November 25 appointment at the Willoughby BEGIN Center where I was reassigned to WEP, this time at the Department of Health. I was given a referral form for that assignment which informed me that I was to work 40 hours every two weeks. A copy of that referral form is attached hereto as Exhibit F. I was never told how the 40 hours was calculated, and no one I spoke to about my assignment mentioned what wage rate was used to determine the number of hours I was to work.

22. If I do not participate in the Health Department WEP assignment, I could be subjected to a sanction reducing my benefits. My grant is currently not enough to pay all of my bills. On the other hand, if I go to work to avoid a sanction, I would be working at least part of the time for the City for free.

23. I object to being assigned without being told what the Labor Department's determination of the prevailing wage rate is for this new assignment. Also, I am currently contesting my assignment through the administrative process on grounds unrelated to this suit.

24. No prior application has been made for the relief requested herein.

WHEREFORE, it is respectfully requested that the Court grant the relief sought herein.

Brenda Stewart
BRENDA STEWART

Sworn to before me this
18th day of December 1996

Michelle Florence Green
Notary Public

MICHELLE FLORENCE GREEN
Commissioner of Deeds
City of New York 3-3558
Certificate Filed in New York County
Commission Expires October 1, 1998

Statement by
RALPH TRICOCHÉ
WEP Worker

Submitted to

The Council of the City of New York

**Joint Hearing of the Committee on Parks, Recreation,
Cultural Affairs and International Intergroup Relations and
the Committee on General Welfare**

December 12, 1996

**“Oversight of the Parks Department Use of *
Work Experience Program (WEP) Workers”**

Good afternoon, my name is Ralph Trioche. I live in Astoria, Queens and I was a participant in the Work Experience Program from August through November of 1996. My first WEP assignment was in Astoria Park in Queens. I was there for two weeks before I was transferred to my own site, Athens Square Park. Athens Square is a playground park in Queens. I was responsible for taking care of this park with one other WEP worker.

When I arrived at Astoria Park, I received no instruction or training to do my job. I was handed a rake and told to rake leaves. When I moved to Athens Park, I was dropped off by the supervisor and told to keep the park clean. The supervisor said, when he came by he wanted to see the park clean. I wasn't told I would be picking up feces or how to deal with bloody needles.

As the person responsible for the park, I did things like paint, clean bathrooms and pick up trash. People who used the park's bathrooms sometimes left feces on the floor, which I had to clean up. When I did painting, I had to scrape old paint off and I had no way of knowing what was in the paint chips that were flying into my nose and mouth. At no time was I issued protective gear to do these things. I was not provided a mask or rubber gloves to do any of these jobs. I believe, I was entitled to a uniform of some kind including pants, shirt and jacket. When I went to work, I had to wear my own clothes which were ruined by the work I did. I received no extra money from welfare to buy clothes to do my WEP job.

In doing my job, I picked up garbage and anything that people left in the park. I picked up bloody needles, pampers, kotex, dirty clothing, broken glass and feces. I received no training as to how to pick these things up and no protective equipment. The only personal protective equipment I ever received was the one pair of gloves. I never

learned about any hazardous material, biological or chemical, virus or bacteria that I may have been exposed to by coming into contact with blood or feces.

In doing my WEP job, I ran the same risk as the Sanitation worker who recently died doing his daily routine when a jug of acid that was left out for curbside pick up, exploded in his face. If I had been hurt doing the same type of daily routine, picking up some unknown hazardous material that had been left in the park, my story never would have made it in the paper. And I wouldn't have even received a decent burial.

I had no chance of getting a real job with the Parks Department. I did the same job that city workers used to do, except I did it for slave wages. The WEP program is about exploitation. It's about indentured servitude with no chance for advancement or independence for obtaining a real job.