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2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM-

(A) GENERAL PROVISIONS- A written document that outlines how the State intends to do the following:

(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

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(B) SPECIAL PROVISIONS-

(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

Delete { (iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

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(A)

- () Determine the eligibility of, and amount of assistance for, needy families on the basis of objective criteria, so that families are treated fairly and equitably.
- () Provide an opportunity for a fair hearing before the appropriate State agency to any individual whose request for assistance is not acted on with reasonable promptness or as to whom assistance is denied, reduced, or terminated, or who is otherwise adversely affected under the program.

Possible Compromise on "Penalty"

List of additional items for which the state can be assessed a penalty. These are additions to the list in section 409. (In all of these instances, it is understood that the penalty is limited to 5 percent and varies according to the amount of noncompliance -- section numbers refer to the House bill.)

1. Compliance with Section 407, Mandatory Work Requirements -- in particular, Engaged in Work [Sec. 407(c)], Penalties Against Individuals [Sec.407(e)], and Nondisplacement {Sec. 407(f)}.
2. Compliance with Section 408, Prohibitions; Requirements -- in particular, Noncooperation in Child Support [Sec. 408(a)(3)] and No Assistance for More than 5 Years [Sec. 408(a)(8)].
3. Compliance with Section 411, Data Collection and Reporting.
4. Compliance with state plan requirements (as defined by the state) with respect to:
 - A. Provision of assistance to needy families as defined in the state plan.
 - B. Equitable treatment.
5. Compliance with transferability provisions.
6. Compliance with Contingency Fund provisions.

Note: Add "as determined by the Secretary" at the end of Section 415(a)(2).

widow's or widower's insurance benefits under section 202(e) or (f) of this Act).

(3) FOSTER CARE AND ADOPTION ASSISTANCE.—Sections 472(h) and 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act²⁹³ (relating to medical assistance for certain refugees).

(5)²⁹⁴ MISCELLANEOUS.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons).

(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

(E) Section 503 of Public Law 94-566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

(F) Section 310(b)(1) of Public Law 96-272 (relating to continuing medicaid eligibility for certain recipients of Department of Veterans Affairs pensions).

ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions that establish additional requirements for State plans to be approved under this title, see the following:

(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

(2) Section 212(a) of Public Law 93-66²⁹⁵ (relating to requiring mandatory minimum State supplementation of SSI benefits program).

^e Vol. II, P.L. 82-414.
^e Vol. II, P.L. 93-66, P.L. 93-233, P.L. 94-566, and P.L. 96-272.
^e Vol. II, P.L. 93-66, §212(a).

FAX to
Booth
Rep. Castle
225-2291

TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES¹

TABLE OF CONTENTS OF TITLE¹

	Page
Sec. 2001. Purposes of title; authorization of appropriations.....	1301
Sec. 2002. Payments to States	1302
Sec. 2003. Allotments.....	1303
Sec. 2004. State administration.....	1304
Sec. 2005. Limitations on use of grants	1305
Sec. 2006. Reports and audits.....	1306
Sec. 2007. Additional grants	1306

PURPOSES OF TITLE; AUTHORIZATION OF APPROPRIATIONS

SEC. 2001. [42 U.S.C. 1397] For the purposes of consolidating Federal assistance to States for social services into a single grant, increasing State flexibility in using social service grants, and encouraging each State, as far as practicable under the conditions in that State, to furnish services directed at the goals of—

PROVIDE ASSISTANCE

- (1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- (2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency;
- (3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;
- (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less-intensive care; and

¹Title XX of the Social Security Act is administered by the Office of Policy, Planning, and Legislation, Office of Human Development Services, Department of Health and Human Services.

Title XX appears in the United States Code as §§1397-1397e, subchapter XX, chapter 7, Title 42.

Regulations of the Secretary of Health and Human Services relating to Title XX are contained in part 96, subtitle A, Title 45, Code of Federal Regulations.

See Vol. II, 31 U.S.C. 7501-7507 with respect to uniform audit requirements for State and local governments receiving Federal financial assistance.

See Vol. II, P.L. 79-396, §17(p), with respect to proprietary title XX center and §17(q) with respect to demonstration projects.

See Vol. II, P.L. 88-352, §601, for prohibition against discrimination in federally assisted programs.

See Vol. II, P.L. 95-521, §102(i), with respect to reporting of benefits received under the Social Security Act.

See Vol. II, P.L. 99-425, Title VI, with respect to grants for awarding scholarships to certain eligible individuals.

See Vol. II, P.L. 100-483, §§105(i)(2) and 206(d)(2), with respect to exclusion from income and resources of certain payments to certain individuals. See Vol. II, 31 U.S.C. 3603(c)(2)(C), with respect to benefits not affected by P.L. 100-363.

See Vol. II, P.L. 101-239, §10405, with respect to Agent Orange settlement payments excluded from countable income and resources under Federal means-tested programs.

¹This table of contents does not appear in the law.

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(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this title.

PAYMENTS TO STATES

SEC. 2002. [42 U.S.C. 1397a] (a)(1) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

(2) For purposes of paragraph (1)—

(A) services which are directed at the goals set forth in section 2001 include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children; the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts; and

(B) expenditures for such services may include expenditures for—

(i) administration (including planning and evaluation);

(ii) personnel training and retraining directly related to the provision of those services (including both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions); and

(iii) conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954¹ or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining (and this clause shall apply with respect to all persons involved in the delivery of such services).

(b) The Secretary shall make payments in accordance with section 6503 of title 31, United States Code², to each State from its allotment for use under this title.

(c) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

(d) A State may transfer up to 10 percent of its allotment under section 2003 for any fiscal year for its use for that year under other provisions of Federal law providing block grants for support of health

¹See Vol. II, P.L. 83-591.

²See Vol. II, title 31.

services, health promotion and disease prevention activities, or low income home energy assistance (or any combination of those activities). Amounts allotted to a State under any provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of this title shall be treated as if they were paid to the State under this title but shall not affect the computation of the State's allotment under this title. The State shall inform the Secretary of any such transfer of funds.

(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this title.

ALLOTMENTS

SEC. 2003. [42 U.S.C. 1397b] (a) The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands and the Northern Mariana Islands shall be an amount which bears the same ratio to the amount specified in subsection (c) as the amount which was specified for allocation to the particular jurisdiction involved for the fiscal year 1981 under section 2002(a)(2)(C) of this Act (as in effect prior to the enactment of this section³) bore \$2,900,000,000. The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

(b) The allotment for any fiscal year for each State other than the jurisdictions of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to—

(1) the amount specified in subsection (c), reduced by

(2) the total amount allotted to those jurisdictions for that fiscal year under subsection (a),

as the population of that State bears to the population of all the States (other than Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands) as determined by the Secretary (on the basis of the most recent data available from the Department of Commerce) and promulgated prior to the first day of the third month of the preceding fiscal year.

(c) The amount specified for purposes of subsections (a) and (b) shall be—

(1) \$2,400,000,000 for the fiscal year 1982;

(2) \$2,450,000,000 for the fiscal year 1983;

(3) \$2,700,000,000 for the fiscal years 1984, 1985, 1986, 1987, and 1989;

(4) \$2,750,000,000 for the fiscal year 1988; and

(5) \$2,800,000,000 for each fiscal year after fiscal year 1989.

³August 13, 1981 (P.L. 97-35; 95 Stat. 357).

STATE ADMINISTRATION

SEC. 2004. [42 U.S.C. 1397c] Prior to expenditure by a State of payments made to it under section 2002 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under this title, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.

LIMITATIONS ON USE OF GRANTS

SEC. 2005. [42 U.S.C. 1397d] (a) Except as provided in subsection (b), grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this title;

(5) for social services (except services to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(6) for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;

(7) for any child day care services unless such services meet applicable standards of State and local law;

(8) for the provision of cash payments as a service (except as otherwise provided in this section); or

(9) for payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under this title or title V,

XVIII, or XIX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

(b) The Secretary may waive the limitation contained in subsection (a)(1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this title.

REPORTS AND AUDITS

SEC. 2006. [42 U.S.C. 1397e] (a) Each State shall prepare reports on its activities carried out with funds made available (or transferred for use) under this title. Reports shall be prepared annually, cover the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to information specified in subsection (c)) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 2004. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(b) Each State shall, not less often than every two years, audit expenditures from amounts received (or transferred for use) under this title. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this title, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States any amount ultimately found not to have been expended in accordance with this title, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

FAX COVER

Date/Time:

**Income Maintenance Branch****Executive Office of the President
Office of Management and Budget
Washington, DC 20503****TO:**

Bruce Reed

FROM:

Keith Fontenot

Fax Destination**Organization:****Fax Number:****Number of Attached Pages:** Cover +**Notes:**

See attached

**Income Maintenance Fax Number:
Voice Confirmation:**202/395-0851
202/395-4686

The Honorable Donna E. Shalala

Page 2

June 14, 1996

2. **Child care.**— How do the resources for child care in the Republican bill compare with present law? Are they adequate to meet the need that will be generated as a result of the increased work requirements? In making these estimates, what would you assume the average cost of child care to be? CBO
3. **Termination of cash assistance.**— A variety of provisions in the Republican bill can result in parents and children losing cash assistance eligibility. How many children and parents will lose benefits? What are their demographic characteristics and which provisions cause this loss of eligibility? Conversely, are any children guaranteed cash assistance under the Republican plan? OK
4. **Poverty effects.**— Have you completed your analysis of the poverty effects of the Republican bill? NO

Work

As you know, a central goal of welfare reform is helping families make a permanent transition to work. I fear that the Republican welfare bill is doomed to fail because I suspect that the work-related elements of the plan are both poorly designed and inadequate. After all, in the Family Support Act of 1988 we tried, without sufficient success, giving States more flexibility. I am not optimistic that — with even fewer Federal requirements and no Federal oversight — we will even come close to achieving our objective this time.

1. **Participation.**— How many adults will be subject to the work requirement under the Republican bill? How does this compare to historical State experience? How many people do you estimate States will be able to engage in work activities, given the resources that are available? Based on State experience to date, can you make any assumptions about the kind of activities recipients will engage in? OK
2. **Resources.**— Given the participation requirements in the Republican bill, and historical State experience, will States have sufficient resources to serve all those who are required? OK

The Honorable Donna E. Shalala
Page 3
June 14, 1996

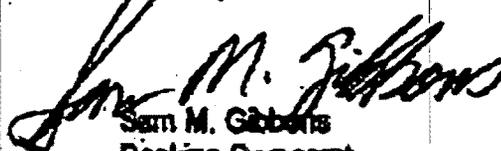
State Accountability

I continue to worry that the Republican welfare reform bill gives States too much flexibility -- that the States could simply raid the Federal Treasury without producing real welfare reform. If that were to happen, real harm would come to children and the American people would be outraged. For that reason, I am interested in the latest analysis that you have completed on the basic effects of the bill.

1. **Maintenance of effort.** -- Under a best and a worst case scenario, by how much could a State reduce its current spending and still qualify for the welfare block grant in the Republican bill? Of the State funds that can be counted toward the maintenance of effort requirement, what portion are *not* now spent exclusively on AFDC children? ?
2. **Allocations.** -- What are the state-by-state allocations for the various sources of funds under the Republican bill? OK

Madam Secretary, I know that you will do all that you can to assist us. Thank you again for your help.

Sincerely,


Sam M. Gibbons
Ranking Democrat

SMG/cp

- Performance Bonus. The vetoed bill had ineffective performance incentives. The Conference provides \$800 million in performance bonuses by 2002, which is consistent with Administration recommendations.

Equal Protections

- The vetoed bill had no provisions for the fair and equitable treatment of individuals, or for State accountability. The House added some general language on fair and equitable treatment, but did not fully address concerns about individual protections and included no State accountability mechanism. The Senate included stronger provisions for objective criteria, equitable treatment, and fair hearings, as well as Secretarial authority to enforce the provisions. The Conference adopts the House provisions, thereby weakening equal protections and State accountability.

Medicaid

- The vetoed bill ended categorical Medicaid eligibility for AFDC recipients. The House and Senate bills continued Medicaid eligibility for families removed from AFDC due to time limits and other eligibility changes, but had inadequate transitional Medicaid for those finding work. The Conference bill strengthens the Medicaid protections by reauthorizing transitional Medicaid through 2002.

Family Cap

- The vetoed bill required State legislatures to vote explicitly to opt out of family cap requirements. The Conference provides complete State opt-in flexibility.

Worker Displacement

- The vetoed bill and the House provided protections only against full worker displacement by workfare jobs. The Senate added language to protect against partial displacement by workfare jobs, and established State grievance procedures. The Conference does not protect against partial displacement, but does provide a State grievance procedure.

FOOD STAMPS & CHILD NUTRITION

- Optional Food Stamps Block Grant. The vetoed bill included an optional food stamp block grant and expansive waiver authority. The House bill included similar provisions. The Senate bill deleted the block grant and waiver authority. The block grant has been deleted from the Conference bill and the waiver language has been tightened. While these aspects have improved a good deal, the combination of waiver authority and other State flexibility provisions may weaken and fragment some of the national program standards underlying Food Stamps.
- Annual Cap on Food Stamp Program Spending. The vetoed bill included a cap on food stamp obligations based on CBO estimates at the time of enactment. This provision has been deleted from the House, Senate, and Conference bills.

- Shelter Deduction. The Senate capped the shelter deduction at \$342 starting January 1, 1997. The House froze the deduction at \$247. The Conference caps the deduction at \$250 in FY97 growing to \$300 in FY 2001 and beyond. The Conference provision would reduce food stamp benefits by \$3 billion over 7 years, with over 90% of program cuts affecting households with children.
- Time Limits/Work Requirements on 18-50s. The Senate limited Food Stamps participation to 4 months out of 12 for able-bodied childless adults with an additional 4 months participation for those who work one month, and allowed States to exempt 20% of the caseload for hardship. The House limited participation to 3 months lifetime, with no hardship provisions. The Conference limits participation to 3 months in a 36 month period, with one additional 3 month period for someone who loses a job, and no hardship provisions.
- Optional School Lunch Block Grant. The vetoed bill included an optional school lunch demonstration block grant. This provision has been deleted from the House, Senate, and Conference bills.

LEGAL IMMIGRANTS

- Bans. The vetoed bill, the House bill and the Senate bill all had prospective and retrospective bans for SSI and Food Stamps affecting about a million people.
- Medicaid. The vetoed bill had a five year Medicaid ban for new immigrants. The House bill added a mandatory retrospective Medicaid ban. The Senate had a prospective 5-year ban for legal immigrants. The Conference agreement includes a prospective 5-year ban.
- Exemptions. The Conference bill does not exempt children and the disabled, causing 300,000 children and 150,000 disabled adults to lose benefits. Various discretionary programs were exempted beyond the vetoed bill, such as Head Start and JTPA.
- School Lunch. Vetoed bill required children to document legal status to receive school lunch. Conference provides access to school lunch without documentation (i.e., if a child goes to school, school lunch must be provided).

SSI CHILDHOOD DISABILITY

- The vetoed bill established a two-tiered eligibility system that would have cut benefits by 25% for more than half of the disabled children coming on the rolls. The conference bill drops the two-tiered system and retains full cash benefits for all eligible children.

CHILD PROTECTION

- The vetoed bill block granted child protection entitlement programs for services, training, and administration. The Conference drops the block grant.

THE GREEN SHEET 41

L.A. Times; 9-20-95

Bipartisanship Advances the Reform of Welfare

Senate crafts a kinder bill than the House version

The welfare reform bill approved overwhelmingly by the Senate Tuesday clearly is better than the House Republicans' much harsher legislation. Both bills, however, certainly would do one thing: end the current version of welfare, which even the most compassionate must admit is quite different from the program for widows, mothers and children drawn up by President Franklin D. Roosevelt.

Both bills would require welfare recipients to go to work. Most should. Both bills would set a deadline for getting off the dole, and that's good as long as states grant reasonable exceptions.

The two bills would shift welfare funding to block grants and give states greater freedom in the use of the money. States should be encouraged to experiment—look at the success of California's GAIN workfare program. But states should also set high standards for assistance to poor children and hold to them.

CHILD CARE FUNDS: The Senate passage of a revision of Aid to Families with Dependent Children was made possible by moderate Republicans and Democrats. Bipartisan compromise, a tool of good government, remains possible in the Senate. The House should take note.

The unusual Senate bipartisanship beefed up funds for child care. That's appropriate. No preschooler should be forced to stay home alone because a parent traded a welfare check for a paycheck.

The coalition also squelched a freeze on benefits for welfare mothers who would give birth to additional children. That provision really made little sense in a nation where 60% of all pregnancies are unplanned.

Moderate Republicans and Democrats also teamed up to reject the House's prohibition of cash welfare benefits for teen-age mothers. Certainly something needs to be done to curb out-of-wedlock births, but denying cash benefits to the children born to teen-age mothers surely

would have done little except encourage abortions.

The Senate's requirement that states spend 80% of what they spent in 1994 on welfare would fairly share responsibility between Congress and the statehouses. States currently pay about half the cost of AFDC. Letting states off the hook, as the House proposals do, would substantially reduce spending on aid and create a deficit if the need remained the same or rises. What then? Waiting lists?

The GOP dominates the current welfare debate, which is as much about who will challenge President Clinton in 1996 as it is about shrinking welfare. Senate Majority Leader Bob Dole of Kansas, the GOP front-runner, must placate the party faithful while avoiding gridlock. Meanwhile, his more conservative rival, Sen. Phil Gramm (R-Tex.), seems bruising for a battle. No presidential challenger will gain if welfare reform is delayed.

CLINTON ON BOARD: President Clinton has indicated he can live with the Senate welfare bill. The debate, however, is not over. The battleground will probably move next to a conference committee to resolve the differences between the House and Senate, although some provisions could get tucked into the budget reconciliation bill.

Republican unity, though solid in the House, is somewhat frail in the Senate. The chasm between GOP moderates and conservatives should temper the final bill. Political hardball would stall the process, and could even prompt a presidential veto—although Clinton would be hard-pressed to veto a welfare reform bill during a reelection campaign.

The President wants welfare reform. So do Dole and House Speaker Newt Gingrich (R-Ga.). Let them find common ground, not only for their own benefit but for the benefit of needy children who deserve to be treated as more than political footballs.

LEVEL 1 - 1 OF 6 STORIES

Copyright 1995 Globe Newspaper Company
The Boston Globe

July 4, 1995, Tuesday, City Edition

SECTION: OP-ED; Pg. 11

LENGTH: 722 words

HEADLINE: Chafee needs help from Democrats in his fight for welfare reform;
THOMAS OLIPHANT

BYLINE: By Thomas Oliphant, Globe Staff

BODY:

WASHINGTON A gutsy move by a gutsy senator has raised hopes that a bipartisan path can be found to genuine reform of the welfare system instead of pointless, punitive plots to keep playing politics with it.

Two weeks ago, John Chafee (R-R.I.) led a group of five moderate Republicans in sticking their necks out for change that can both work and actually become law.

For further progress to be made, however, Democrats must do more than simply cheer on the GOP Five in their challenge to their party's far right. They need to work with the moderates to cobble a bipartisan majority together that can control the Senate floor against a right-wing filibuster.

That means not just resisting the shredding of a national safety net for the poor, but accommodating moderate Republican desires to decentralize welfare and even to end its open-ended entitlement status. In another manifestation of its New Democrat governance posture, the Clinton White House is already assisting the effort to create common ground, for which it deserves credit instead of the gripes of knee-jerk liberals.

Chafee and his pals are trying to protect from all-out conservative attack the welfare legislation approved by the Senate Finance Committee. Specifically, they have told Majority Leader Bob Dole they would "strenuously object" to any changes that would require states to do any of three things required in the mean-spirited bill passed by the House earlier this year:

1. Cap benefits to families by banning payments to support additional children.
2. Deny any benefits to children born to teen-age mothers.
3. Deny any benefits to children whose paternity is not established.

These are precisely the goals of a coalition of Senate right wingers led by Lauch Faircloth of North Carolina, who has vowed to filibuster anything less in his crusade against "illegitimacy."

In fact, it is Faircloth's crusade that is illegitimate. As Chafee and his colleagues made clear, there exists not a shred of evidence linking family size to benefit levels (in truth, welfare families have been falling in average

The Boston Globe, July 4, 1995

size); without any, the right-wing proposals "will only appear punitive because it is the children who will be denied much-needed assistance through no fault of their own."

Chafee was joined in his move by Nancy Kassebaum of Kansas (who chairs the Human Resources Committee), Jim Jeffords of Vermont, Arlen Specter of Pennsylvania and Ben Nighthorse Campbell of Colorado. There are several others in the wings.

With a solid block of Democrats, they could form an antifilibuster majority of the required 60 members. However, bipartisanship is a two-way street, and Democrats need to understand what reform as envisaged by the moderates will have to entail. At a minimum, it will mean:

1. Block grants to the states to replace the current system of waivers for new state initiatives.
2. An end to the automatic entitlement status of Aid to Families With Dependent Children that guarantees benefits nationally to all who qualify.
3. A time limit, most likely of five years in toto, for the receipt of benefits.

For many liberals, the entitlement issue is a major sticking point, but it shouldn't be, and it isn't for President Clinton. The fact is the value of the federal entitlement is puny. Stingy states have kept benefits constant or even cut them for 20 years. Calling AFDC an entitlement is of dubious meaning to a family in Texas or Mississippi forced to exist on \$ 150 a month in cash.

Supporting Chafee and his group, moreover, can advance other welfare issues in which Republicans have already expressed an interest - notably some extra funds for assistance in the event of recessions and to make work requirements workable, as well as requirements that states maintain their existing levels of financial support as they reform their programs.

A year ago, Democrats responded too late to efforts by Chafee and others to push a compromise, incremental version of national health-care reform; the result was no reform at all.

This time around on welfare, his gutsiness deserves a serious response. The center can hold on this issue. After 30 years of endless shouting matches, while poverty has spread and the degradation of welfare subsistence has worsened, my-way-or-nothing politics hasn't a leg left to stand on.

LANGUAGE: ENGLISH

LOAD-DATE: July 6, 1995

8/10/95

WELFARE REFORM

Q. Some have complained that you're too eager to get a bill, and too reluctant to threaten a veto. Would you veto the Dole welfare reform bill if it passes the Senate in its current form?

A. I've made very clear that I won't just sign any bill that comes along because it's called welfare reform. I've spent most of my adult life working on this issue. But we've come a long way in this debate. A year ago, Congress was talking about orphanages as the solution to teen pregnancy. Now the Senate has rejected that approach, and Senator Dole's bill includes my approach, which is requiring teen mothers to live at home, stay in school, and turn their lives around. Not so long ago, some in Congress wanted to pass a welfare reform that didn't toughen child support enforcement. Now both the House and Senate bills have adopted every major child support provision of my bill, and say to deadbeat parents: If you don't pay your child support, we'll garnish your wages, suspend your license, track you across state lines, and if necessary, make you work off what you owe.

We can do this. But first, Congress needs to put ideology and partisanship aside and focus on the real test of welfare reform, which is whether it will move people from welfare to work. The Dole bill still comes up short on that test, and that's why the Senate couldn't get welfare reform done this week. As soon as they get serious about really moving people from welfare to work, they can get this done. That means making sure there's child care so we can enforce tough work requirements. It means rewarding states for putting people to work, not for just cutting them off the rolls. And it means making sure states put up some of their own money to move people into work, not just sending a blank check from one bureaucracy to another.

**MEETINGS WITH HOUSE MEMBERS ON HR 4 CONFERENCE
FOR WENDELL PRIMUS AND MARY JO BANE**

*Tim Hutchinson (R-AR) Completed	10/13 Fri.		1005 Longworth	9:00am	Mary Jo	Mary B/ Geri
Deborah Pryce (R-OH) Completed	10/13 Fri.		221 Cannon	1:00pm	Mary Jo	Mary B/ Jim
*Jim McCrery (R-LA) Postponed 10/12	10/13 Fri.		225 Cannon	2:30pm	Wendell	Rich/ Geri
Peter Torkildsen (R-MA) Completed	10/17 Tues.		120 Cannon	11:30am	Wendell	Mary B/ Marion
*Clay Shaw (R-FL) <i>Postponed</i>	10/24 Tue.		2267 Rayburn Call with HHS- names	2:00pm	Mary Jo Wendell	Rich/ Marion
Dave Camp (R-MI)	10/25 Wed.		137 Cannon	10:00am	Wendell	Rich/Jim
Frank Riggs (R-CA) Rescheduled 10/25	10/25 Wed.		1714 Longworth	1:00pm	Wendell	Mary B/ Irene fax confirm
*Sam Gibbons (D-FL) Tentative	10/25 Wed.		2204 Rayburn	2:30pm	Mary Jo Bruce Reed	Rich/ Mary B/ Helen
*Barbara Kennelly (D-CT)	10/26 Thu.		201 Cannon	12:30pm	Mary Jo	Rich/ Marion
*William Clay (D-MO)	10/27 Fri.		2306 Rayburn	1:15pm	Mary Jo Bruce can not attend	Rich/ Jim

October 24, 1995, 11:21 am

* Conferees

**MEETINGS WITH HOUSE MEMBERS ON HR 4 CONFERENCE
FOR WENDELL PRIMUS AND MARY JO BANE**

Member of Congress	Date Of Meeting	Place	Time	Admin Official	ASL Staff
*Sander Levin (D-Michigan) Completed	10/10 Tues.	2230 Rayburn	8:30am	Mary Jo	Rich/ Doug
*Henry Waxman (D-CA) Completed	10/10 Tues.	2408 Rayburn	3:30pm	Mary Jo	Mary B
Michael Castle (R-DE) Completed	10/11 Wed.	1207 Longw- orth	2:00pm	Mary Jo Wendell	Mary B/ Jim
*de la Garza (D- TX) Completed	10/11 Wed.	1401 Longw- orth		Wendell	Irene
*George Miller (D-CA) Completed	10/11 Wed.	2205 Rayburn	3:45pm	Wendell	Mary B/ Irene
*Nancy Johnson (R-CT) Completed	10/12 Thu.	343 Cannon	11:00am	Mary Jo	Rich/ Helen
*Harold Ford (D-TN) Completed	10/12 Thu.	2111 Rayburn	1:00pm	Wendell	Rich/ Doug
Marge Roukema (D-NJ) Completed	10/12 Thu.	2469 Rayburn	3:30pm	Mary Jo	Rich/ Doug
*Blanche Lam- bert Lincoln (D- AR) Completed	10/12 Thu.	1204 Longw- orth	4:00pm	Wendell	Mary B/ Doug

October 24, 1995, 11:10 am

* Conferees

**MEETINGS WITH HOUSE MEMBERS ON HR 4 CONFERENCE
FOR WENDELL PRIMUS AND MARY JO BANE**

Member	Contact	Date/Time	Location	Notes
Wendell Primus				
Rep. Michael Castle R-DE Completed	225-4165 Helen (scheduler)	Wednesday, October 11 2:00pm	1207 Longworth	Mary B/Marion staff contact -- An- gela Campbell
Rep. Amo Houghton R-NY	225-3161 Annie (scheduler)		1110	Mary B/Jim scheduler checking with Mary Jo - leg dir; will call back
Rep. Chris Shays R-CT	225-5541 Diana (scheduler)		1502	Rich/Doug checking with Shays; will call back
Rep. Peter Torkildsen R-MA	225-8020 Nina (scheduler)	Tuesday, October 17 11:30am	120 Cannon	Mary B/Marion wants written con- firmation (fax -- 225-8035)
*Rep. Harold Ford D-TN Completed	225-3265 Shantel (scheduler)	Thursday, October 12 1:00pm	2111 Rayburn	Rich/Doug will call back when she knows the sched- ule for Ways and Means mark-up of Medicare bill -- maybe Monday

October 24, 1995, 11:10 am

* Conferees

Member	Contact	Date/Time	Location	Notes
*Rep. George Miller D-CA Completed	225-2095 Sylvia (scheduler)	Wednesday, October 11 3:45pm	2205 Longworth	Mary B/Irene
*Rep. Blanche Lambert Lincoln D-AR Completed	225-4076 Sandy Webster (scheduler)	Thursday, October 12 4:00pm	1204 Longworth	Mary B/Helen
Rep. Clay Shaw R-FL Postponed 10/12	225-3026 Mary Kay (scheduler)	Friday, October 13 11:30am	2267 Rayburn	<i>Rich/Marion tentative -- need to confirm on Wednesday, October 11</i>
*Rep. Jim Nussle R-IA	225-2911 Maureen (scheduler)		303	Rich/Jim will call back
*Rep. Jim McCrery R-LA Postponed 10/12	225-2777 Christine (scheduler)	Friday, October 13 2:30pm	225 Cannon	Rich/Geri staff contact -- Angel Vellido
*Rep. Dave Camp R-MI	225-3561 Tamara (scheduler)	Wednesday, October 25 10:00am	137 Cannon	Rich/Jim will call back at end of week; next week not good due to Medicare mark-up
*Rep. Nancy Johnson R-CT Mary Jo by herself.	225-4476	Thursday, October 12 11:00am	343 Cannon	Rich/Helen Wendell to accompany Mary Jo

October 24, 1995, 11:10 am

* Conferees

Member	Contact	Date/Time	Location	Notes
*Rep. de La Garza D-TX Completed	225-2531	Wednesday, October 11	1401 Cannon	Irene
*Rep. Lamar Smith R-TX	225-4236		2443 Rayburn	Irene
*Rep. John Conyers, Jr. D-MI	225-5126		2426 Rayburn	Irene
Rep. Lincoln Diaz- Balart R-FL	225-4211		431 Cannon	Rich/Irene
Rep. Ileana Ros-Leh- tinen R-FL	225-3931		2440 Rayburn	Rich/Irene
Rep. Frank Riggs R-CA Rescheduled 10/25	225-3311	Wednesday, October 25 3:00pm	1714 Longworth	Mary B/Irene
Mary Jo Bane				
*Rep. Sander Levin D-MI Completed	225-4961	Tuesday, October 10 8:30am	2230 Rayburn	Rich/Doug

October 24, 1995, 11:10 am

* Conferees

Member	Contact	Date/Time	Location	Notes
*Rep. Nancy Johnson R-CT Completed	225-4476	Thursday, October 12 11:00am	343 Cannon	Rich/Helen
*Rep. Gary Franks R-CT	225-3822			Does not want a meeting at all
Constance Morella R-MD	225-5341			Does not need a meeting. She's with us all the way.
Marge Roukema D-NJ Completed	225-4465	Thursday, October 25 1:00pm	2469 Rayburn	Rich/Doug
*James Talent R-MI	225-2561			Mary B Waiting on Call Back on Tuesday
*Tim Hutchinson R-AR Completed	225-4301	Friday, October 13 9:00am	1005 Longworth	Mary B/Geri
*Henry Waxman D-CA Completed	225-3876	Tuesday, October 10 3:15pm	2408 Rayburn	Mary B
*Barbara Kennelly D-CT	225-2265	Thursday, October 26 12:30pm	201 Cannon	Rich/Marion Waiting on Call Back on Tuesday

October 24, 1995, 11:10 am

* Conferees

Member	Contact	Date/Time	Location	Notes
Susan Molinari R-NY	225-3371			Will be involved in several mark-ups next week
Deborah Pryce R-OH Completed	225-2015	Friday, October 13 1:00pm	221 Cannon	Mary B/Jim Waiting on Call Back
Rep. Bill Emerson R-MO	225-4404			
*Rep. Sam Gibbons D-FL Tentative	225-3376	Wednesday, October 25 2:30pm	2204 Rayburn	BR/Rich/MaryB/ Helen
*Rep. Bill Goodling R-PA	225-5836		2263 Rayburn	BR/MaryB/Geri
Rep. Sherwood Boe- hlert R-NY	225-3665		2246 Rayburn	Rich/Irene
Rep. Steve Gunderson R-WI	225-5506		2185 Rayburn	MaryB/Geri
Rep. Thomas Petri R-WI	225-4215		2430 Rayburn	Rich/Geri
*Rep. William Clay D-MO	225-2406	Friday, October 27 1:15pm	2306 Rayburn	BR/RichT/Jim

October 24, 1995, 11:22 am

* Conferees

date

The Honorable Gerald B. H. Solomon
Chairman
Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to transmit the Administration's views on actions that the House will take to comply with budget reconciliation instructions on Medicaid and welfare reform.

As you know, the President has proposed a plan that the Congressional Budget Office (CBO) said would reach balance in 2002. It protects and strengthens Medicare and Medicaid; reforms welfare to make work pay; invests in education and training, the environment, and other priorities to raise living standards and the quality of life for average Americans; and targets tax relief to help middle-income Americans raise their young children, pay for postsecondary education, and save for the future. It achieves all this without raising taxes on hard-pressed working Americans.

The President is committed to balancing the budget while reforming welfare and retaining the Federal guarantee of Medicaid coverage for our most vulnerable citizens including: senior citizens, people with disabilities, pregnant women and poor families and children. But, as reported by the Commerce, Ways and Means, Educational and Economic Opportunities, and Agriculture Committees, the first reconciliation package, H.R. 3437, does not meet those objectives.

The President wants real welfare reform. But, as he has said repeatedly, he will not accept any legislation that would block grant Medicaid, thus undermining its guarantee of health coverage to millions of vulnerable Americans. STRIKE The welfare reform section of the bill also continues to raise serious concerns. Thus, if this bill is presented to the President in its current form, he will veto it.

In addition, the President does not believe Congress should raise taxes on low-income working families, as this package would do. H.R. 3437 raises taxes on more than 4 million low-income working families -- including 7 million children -- by cutting the Earned Income Tax Credit (EITC) and we are concerned that Congress may include more EITC cuts in future reconciliation bills -- as much as \$18.5 billion more as called for in the FY97 Budget Resolution. These EITC cuts could total over \$20 billion and are particularly ill conceived when considered in the context of welfare reform which is trying to encourage work and make work pay.

Moreover, if the majority includes the \$122 billion in tax cuts, (permitted in the reconciliation instructions), in this package at the Rules Committee, the legislation will achieve only about \$2 billion in deficit reduction. Indeed, that package would increase the deficit by about \$35 billion over the next three years, producing average deficits of over \$130 billion for six years.

In addition, the tax cuts -- which purport to be \$122 billion - are understated and misleading. For one thing, the cost of the child tax credit mysteriously falls in the year 2002, meaning that the revenue estimate for the credit is too low or part of the credit itself disappears. For another, the level of permitted tax cuts is actually higher. Not only does the resolution omit \$35 billion in revenues from extending expiring provisions in last year's vetoed reconciliation bill, it also omits \$26 billion in revenues from closing corporate loopholes and other tax measures from the last Republican offer. The resolution appears to reserve these revenues to pay for higher tax cuts. If incorporated in this resolution, these revenues could offset some of the unnecessarily deep cuts in Medicare, Medicaid, and other important priorities and make it unnecessary to raise taxes on 4 million families. This financing arrangement could produce total cuts of \$250 billion in services and coverage. Again, the President's budget demonstrates that we can balance the budget and provide targeted tax relief for those who need it most without making unnecessarily deep cuts in these and other priority programs.

The Administration has the following specific comments on the Medicaid and welfare portions of the package, as reported by House Committees:

MEDICAID

The President has made clear that Medicaid reform must promote three basic principles: 1) a real, enforceable federal guarantee of coverage for a meaningful set of benefits; 2) adequate and appropriately shared federal and state financing; and 3) more state flexibility with beneficiary protections, quality standards, and accountability. Unfortunately, the bill that the House Commerce Committee approved does not satisfy these principles.

The Committee's bill undermines the guarantee to meaningful health benefits for our most vulnerable citizens. It repeals the requirement that States use the federal standard for defining disability and substitutes a provision that could lead to 50 separate state definitions, leaving millions of people with disabilities at risk of losing their coverage. Moreover, while the bill continues current law extensions of mandatory Medicaid coverage for children ages 13 to 18 in families below the federal poverty level, it ends the federal right of action for Medicaid beneficiaries and eliminates requirements for the comparability, statewideness, and adequacy of amount, duration, and scope of benefits. Without such protections, these children and all Medicaid enrollees have no real guarantee of coverage and millions of children could see their benefits cut back.

The bill would create a block grant. It would not protect states from unexpected increases in Medicaid enrollment due to an economic crisis, such as a recession. Transforming Medicaid's

federal-state partnership to a block grant could force states to limit or deny benefits to millions of families and children, people with disabilities, pregnant women and the elderly who depend on Medicaid for their health and long-term care. Clearly, that approach cannot, and does not, meet the President's principle of guaranteeing meaningful benefits for eligible populations.

The Committee cuts overall federal Medicaid spending by \$72 billion. It exacerbates these deep cuts by raising the federal matching rate for many States, thereby enabling these States to draw their total federal allotment with fewer States to draw their total federal allotment with fewer State funds. The President has demonstrated that we can balance the budget without this level of cuts.

The Committee approved an amendment to maintain the current prohibition against provider taxes and donations, authorizing the Secretary of Health and Human Services to waive the prohibitions on a state-by-state basis after two years. But, to prevent states from resorting to these illusory financing schemes for cutting the state Medicaid contribution, the prohibition must remain permanent and unwaivable. The bill also unwisely repeal the limits on provider payments to disproportionate share hospitals (DSH), enacted in the President's 1993 economic program. These limits have curbed states' "recycling" of federal Medicaid funds through DSH hospitals. Their repeal, along with weakening the prohibitions on provider taxes and donations, could lead to fewer "real" state dollars being spent on Medicaid.

The bill also ends many longstanding family and beneficiary protections. With these changes, families and beneficiaries may incur deep financial liabilities, and federal taxpayers will have fewer assurances that their tax dollars are well spent. For example, the bill gives states broad discretion to impose any level of cost-sharing on many Medicaid beneficiaries. It also eliminates any quality assurance standards or monitoring responsibilities for many important health care providers, including managed care organizations and intermediate care facilities for the mentally retarded. It contains no mechanism to ensure that changes in benefits and cost sharing do not jeopardize the sufficiency of coverage. As a result, millions of middle class families could have to pay considerable out of pocket costs simply to ensure their relatives are able to receive the care they receive today.

The Administration believes we can give the states the flexibility they need to manage their Medicaid programs, while maintaining a strong federal-state partnership built on a foundation of shared resources, accountability to the taxpayers, and national protections for the most vulnerable Americans. Despite limited efforts to improve the bill at the committee level, the bill fails to meet these commitments. Consequently, it remains unacceptable.

WELFARE

As reported by its committees, the House's new bill, H.R. 3437, makes important improvements to the conference report on H.R. 4. It incorporates a number of key changes that

the Administration recommended and that were in the National Governors' Association (NGA) and Castle-Tanner proposals. We urge the Committee to build on these bipartisan improvements. The bill, however, does not address several issues of concern, particularly in providing the resources and incentives to protect children and families, ensure accountability, and move people from welfare to work.

Improvements in H.R. 3437

We appreciate the Committee's efforts to strengthen provisions that are central to work-based reform, such as child care, and to provide some additional protections for children and families. In rejecting H.R. 4, the President singled out a number of provisions that were tough on children and did too little to move people from welfare to work. H.R. 3437 includes important changes to these provisions which move the legislation closer to the President's vision of true welfare reform. We are particularly pleased with the following improvements:

- Child Care. As the President has insisted throughout the welfare reform debate, child care is essential to move people from welfare to work. The bill reflects a better understanding of the child care resources that states will need to implement welfare reform, adding \$4 billion for child care above the level in H.R. 4. The bill also recognizes that parents of school-age children need child care in order to work and protect the health and safety of children in care.
- Food Stamps. The bill removes the annual spending cap on Food Stamps, preserving the program's ability to expand during periods of economic recession and help families when they are most in need.
- Child Nutrition. The bill no longer includes H.R. 4's provisions for a child nutrition block-grant demonstration, which would have undermined the program's ability to respond automatically to economic changes and maintain national nutrition standards.
- Child Protection. We commend the Committee for preserving the open-ended nature of Title IV-E foster care and adoption assistance programs, current Medicaid coverage of eligible children, and the national child data collection initiative.
- Supplemental Security Income (SSI). The bill removes the proposed two-tiered benefit system for disabled children receiving SSI, and retains full cash benefits for all eligible children.

The bill makes other improvements that will strengthen states' abilities to move people from welfare to work. It improves the performance bonus provisions by establishing a separate funding stream. It increases the cash block-grant contingency fund modestly and adds a more responsive trigger based on the Food Stamp caseload. And it adopts higher exemptions from the time limit ~~and requirements that teen mothers live at home and stay in school.~~ *more flexible*

We remain pleased that Congress has decided to include central elements of the President's approach -- time limits, work requirements, the toughest possible child support enforcement, requiring minor mothers to live at home as a condition of assistance -- in this legislation.

Concerns With HR 3437

The bill still lacks other provisions that have earned bipartisan endorsement.

- Size of the cuts. The welfare provisions incorporate almost all of the cuts that were in the vetoed bill -- \$53 billion (including EITC) over 6 years, under CBO's new baseline. These cuts far exceed those proposed by the NGA or the Administration. Cuts in Food Stamps and benefits to legal immigrants are particularly deep. In addition, unlike the Administration's bill, H.R. 3437 would allow states to substantially cut their own spending on programs serving low-income families. The President's budget demonstrates that cuts of this size are not necessary to achieve real welfare reform, nor are they needed to balance the budget.
- Food Stamps. The bill makes deep cuts in the Food Stamp program, including a cut in benefits to households with high shelter costs that disproportionately affects families with children, and a four-month time limit on childless adults who are not given a work slot, but are willing to work. It also includes an unacceptable block grant, eliminating the Federal nature of the program and jeopardizing the nutrition and health of millions of children, working families, and the elderly.
- Resources for Work. H.R. 3437 would not provide the resources states need to move recipients into work. CBO estimates about \$9 billion shortfall over six years in resources for work under H.R. 3437 if states were to maintain their current level of cash assistance benefits to poor families and children. Moreover, the Education and Economic Opportunity Committee increased this shortfall and cut state flexibility by raising the weekly number of hours that States must place recipients in work activities and increasing the participation rates.
- Legal Immigrants. The bill does not change the excessively harsh and uncompromising immigration provisions of last year's bill. While we support the strengthening of requirements on the sponsors of legal immigrants applying for SSI, Food Stamps, and AFDC, legal immigrants who work, pay taxes, and contribute to society should not be denied access to basic safety net programs. The bill bans SSI and Food Stamps for virtually all legal immigrants, and imposes a 5-year ban on all other Federal programs, including Medicaid, for new legal immigrants. These bans even would cover legal immigrants who become disabled after entering the country, families with children, or current recipients. The proposal unfairly shifts costs to states with high numbers of legal immigrants. Finally, the bill requires virtually all federal, state, and local benefits programs

to verify recipients' citizenship or alien status. These mandates would create significant administrative burdens for citizens and for state, local and non-profit service providers.

- Medical Assistance Guarantee. The bill does not maintain the guarantee for medical assistance for all those now eligible or who reach the five-year time limit.
- Protection in Economic Downturn. The bill lacks adequate protection for States in the event of economic downturns. The contingency fund is too small and does not allow for further expansions (above the \$2 billion cap) during poor economic conditions and periods of increased need.
- Transfers to the Social Services Block-grant (SSBG). We are deeply concerned that the bill provides the proposed cash assistance block grant with transfer authority to the SSBG. Transfers to SSBG could lead states to substitute Federal dollars for State dollars in an array of State social services activities, potentially cutting or even eliminating the effective State maintenance of effort levels required for the cash block grant.
- Vouchers. The bill actually reduces State flexibility by prohibiting states from providing a safety net for children. H.R. 4 contained no such prohibition, and the NGA opposes it. We strongly urge the adoption of the voucher language in the Administration's bill, H.R. 3266 (Castle-Tanner).

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We are also concerned that the bill repeals the Family Preservation and Support program, which may mean less State spending on abuse and neglect prevention activities.

The Administration strongly supports several provisions included in S. 1795, as reported out by the Senate Finance Committee. These provisions include: allowing transfers only to the child care block grant, increasing the maintenance of effort requirement with a tightened definition of what counts toward this requirement, improving the fair and equitable treatment and enforcement language, prohibiting sanctions for families with children below 11 for failure to participate in work if due to lack of child care, and eliminating the child protection block grant. We urge you to include these provisions in H.R. 3437.

The Castle-Tanner proposal addresses many of our concerns, and it would strengthen state accountability efforts, welfare to work measures, and protections for children. It provides a foundation on which this Committee should build in order to provide more State flexibility; incentives for AFDC recipients to move from welfare to work; more parental responsibility; and protections for children.

The President has sent Congress a comprehensive welfare reform proposal. It would replace the current system with one that demands responsibility, strengthens families, protects children, and gives States broad flexibility and the needed resources to get the job done.

WR

We strongly support the recent bipartisan initiatives from our Nation's governors and moderate Republicans and Democrats in both Houses of Congress. We also strongly support bipartisan efforts of the governors and the Castle-Tanner group to reform welfare without gutting Medicaid. Congress should stop holding welfare reform hostage, and send the President a bipartisan, stand-alone welfare bill that does not eliminate the guarantee of health care for poor children, the disabled, and the elderly.

The President and Congress share the goal of a balanced budget, but we have grave concerns about the approach adopted in this bill. The President and the Republican leadership have more than enough savings in common to balance the budget and provide targeted middle class tax relief. Congress should work with the President to give Americans the balanced budget they deserve.

Sincerely,

Jacob J. Lew
Acting Director

IDENTICAL COPIES SENT TO THE HONORABLE JOHN J. MOAKLEY, THE
HONORABLE JOHN R. KASICH, AND THE HONORABLE MARTIN O. SABO

EXECUTIVE OFFICE OF THE PRESIDENT

15-Jul-1996 04:07pm

TO: Lisa Kountoupes
TO: Kenneth S. Apfel

FROM: Bruce N. Reed
Domestic Policy Council

SUBJECT: Comments on HSE Rules letter (welfare)

Here are my edits:

p. 1, 4th graph, last 2 sentences: Current draft gets the priorities wrong. Rewrite to say, "At the same time, however, the Administration is deeply concerned about certain provisions of H.R. 3734 that would adversely affect benefits for food stamp households and legal immigrants, as well as with the need for strong state accountability and flexibility."

p. 2, 1st full graph after 5 bullets: Delete this graph, and turn the elements in this graph into 3 more bullets, each with headings:

* Work Performance Bonus: We commend the Committee for giving states an incentive to move people from welfare to work by providing \$1 billion in work performance bonuses. This provision is an important element of the Administration's bill, and will help change the culture of the welfare office.

* Contingency Fund: The bill adopts the National Governors Association recommendation to double the size of the Contingency Fund to \$2 billion, and add a more responsive trigger based on the Food Stamp caseload. Further steps the Congress should take to strengthen this provision are outlined below.

* Hardship Exemption: We commend the Committee for following the National Governors Association recommendation and the Senate-passed welfare reform bill by allowing states to exempt up to 20% of hardship cases that reach the five-year time limit.

p. 2, at the end of the improvements section: Move up the paragraph from p. 5 about Senate improvements and put it here, as the last graph of the improvements section. ("The Admin strongly supports several provisions included in S1795 etc.")

p. 2, last line: "Key Concerns with HR 3437" (not Key Problems)

p. 3, size of cuts: In the 1st sentence, change "almost all of the cuts" to "most of the cuts". Delete the 4th sentence ("In addition etc.") -- we support Castle-Tanner and Breaux-Chafee, so this is the wrong criticism.

p. 3, Food Stamps, last sentence: Change "eliminating the Federal nature" to "which has the potential to seriously undermine the Federal nature".

p. 3, Legal immigrants: Rearrange 2nd sentence to read "While we support the strengthening of requirements on the sponsors of legal immigrants applying for SSI, FS, and AFDC, the bill bans SSI and FS for virtually all legal immigrants etc." Delete the 4th sentence.

p. 3, Medical Assistance: We need to clarify this point -- doesn't the Commerce Comm bill fix part of this? I would suggest something like, "In contrast to the vetoed bill, this bill does follow the NGA recommendation to provide Medicaid assistance to those who receive cash benefits under the new program. However, the bill does not maintain the guarantee for med assistance for all those currently eligible or who reach the 5yr time limit."

p. 4, Downturn: Delete 1st sentence, and rewrite second to say, "Although the contingency fund is twice the size of the vetoed bill, it still does not allow for further expansions etc." (We're not really arguing for a larger fund -- just a softer cap)

p. 4, SSBG: In last sentence, delete "or even eliminating"

p. 4, resources for work: Combine 1st and 2nd sentences as follows: "According to CBO, HR 3437 would leave states with a \$9 billion shortfall over 6 yrs in resources for work if they maintained their current level of cash assistance."

Thanks.

June 27, 1996

TO:

Bruce Reed -
Chris Jennings
Jennifer Klein
John Angell -
Martha Foley
John Hilley
Barbara Chow
Janet Murguia
Andy Blocker
Gene Sperling
Pauline Abernathy
George Stephanopoulos

FROM:

Lisa Kountoupes
OMB Legislative Affairs

Attached please find the text of the Director's letter commenting on the first House Reconciliation bill (Medicaid, welfare, taxes). I need responses back via E-mail (this was also sent by computer), voice mail (54790), or marked up text (our fax is 53729 and we're in room 243) by 11:00 am tomorrow, Friday June 28. FYI this text will also serve as a starting point for a similar letter to be sent to the Senate. Thanks.

Hilley:

date

The Honorable Gerald B. H. Solomon
Chairman
Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to transmit the Administration's views on actions that the House will take to comply with budget reconciliation instructions on Medicaid and welfare reform.

As you know, the President has proposed a plan that the Congressional Budget Office (CBO) said would reach balance in 2002. It protects Medicare and Medicaid; reforms welfare to make work pay; invests in education and training, the environment, and other priorities to raise living standards and the quality of life for average Americans; and targets tax relief to help middle-income Americans raise their young children, pay for postsecondary education, and save for the future.

The President is committed to balancing the budget while reforming welfare and retaining the Federal guarantee of Medicaid coverage for senior citizens, people with disabilities and poor children. But, as reported by the Commerce, Ways and Means, Educational and Economic Opportunities, and Agriculture Committees, the first reconciliation package, H.R. 3507, does not meet those objectives. Nor does this reconciliation package help very much to balance the budget.

The President wants real welfare reform. But, as he has said repeatedly, he will not accept any legislation that would block grant Medicaid, thus undermining its guarantee of health coverage to millions of vulnerable Americans. In addition, the President does not believe Congress should raise taxes on low-income working families, as this package would do. Thus, if this bill is presented to the President in its current form, he would veto it.

H.R. 3507 raises taxes on low-income working families by cutting the EITC, and we are concerned that Congress may include more EITC cuts in future reconciliation bills. The bill also requires low-income families to provide more documentation to receive tax benefits on behalf of their children than higher income families provide. By contrast, the Administration's compliance proposals that do not require poor families to provide more documentation than high income families; by adopting them, Congress also could offset most of the cost of dropping the tax increase.

NOT
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ad ETC

Moreover, the reconciliation instructions provide for \$122 billion in tax cuts as part of this package (although the House Budget Committee did not include them in the package that it reported on June 19). Congress should not pay for tax cuts with excessive cuts in Medicaid and welfare. If the majority includes the permitted tax cuts in this package, it will have a bill that achieves only about \$2 billion in deficit reduction. Indeed, that package would increase the deficit by about \$33 billion over the next three years, producing average deficits of over \$130 billion for six years.

Further, the size of the tax cuts is misleading. For one thing, the cost of the child tax credit inexplicably falls in the year 2002, meaning either the revenue estimate for the credit is too low or part of the credit itself disappears. For another, the level of permitted tax cuts is actually higher. In fact, Republicans have talked about total tax cuts of \$170-\$185 billion. The \$36 billion from extending expiring provisions (from last year's vetoed reconciliation bill) and \$26 billion from closing corporate loopholes and other tax measures (from the last Republican offer) were not in the budget resolution. Thus, the majority apparently is reserving these revenues to pay for excessive tax cuts. Rather than finance such tax cuts, the revenues could offset some of the unnecessarily deep cuts that Republicans have proposed in Medicaid and welfare as well as Medicare and other priorities.

The Administration has the following specific comments on the Medicaid and welfare portions of the package, as reported by House Committees:

MEDICAID

The President has made clear that Medicaid reform must promote three basic principles: 1) a real, enforceable federal guarantee of coverage for a defined benefit package; 2) adequate and appropriately shared federal and state financing; and 3) more state flexibility with beneficiary protections, quality standards, and accountability. Unfortunately, the bill that the House Commerce Committee approved does not satisfy these principles.

The Committee's bill undermines the guarantee to meaningful health benefits for our most vulnerable citizens. It repeals the federal standard for defining disability and substitutes a provision that could lead to 50 separate state definitions, leaving millions of people with disabilities at risk of losing their guarantee to coverage. Moreover, while the bill continues current law extensions of mandatory Medicaid coverage for children from 13 to 18 in families below the federal poverty level, it ends the federal right of action for Medicaid beneficiaries and eliminates requirements for the comparability, statewideness, or amount, duration, and scope of benefits. Without such protections, these children have no real guarantee of coverage.

Put simply, the bill would create a block grant. It would not protect states from unexpected increases in Medicaid enrollment due to an economic crisis, such as a recession. Transforming Medicaid's federal-state partnership to a block grant could force states to limit

or deny benefits to millions of children, people with disabilities, and the elderly who depend on Medicaid for their health and long-term care. Clearly, that approach cannot, and does not, meet the President's principle of guaranteeing coverage for defined populations with a meaningful benefit package.

For many states, the bill raises the federal contribution rate to Medicaid, and cuts the level of state funds needed to collect federal matching funds. The Committee's deep cuts -- \$72 billion -- combined with the potential for even deeper cuts by the states, could produce total cuts in services and coverage of \$250 billion.

The Committee approved an amendment to maintain the current prohibition against provider taxes and donations, authorizing the Secretary of Health and Human Services to waive the prohibitions on a state-by-state basis after two years. But, to prevent states from resorting to these illusory financing schemes for cutting the state Medicaid contribution, the prohibition must remain permanent and unwaivable. The bill also unwisely scraps the limits on provider payments to disproportionate share hospitals (DSH), enacted in the President's 1993 economic program. These limits have curbed states' "recycling" of federal Medicaid funds through DSH hospitals. Their repeal, along with weakening the prohibitions on provider taxes and donations, could lead to fewer "real" state dollars being spent on Medicaid, forcing even deeper total spending cuts.

The bill also ends many longstanding family and beneficiary protections. With the financing changes, federal taxpayers may end up paying for more of Medicaid, and have fewer assurances that their tax dollars are well spent. For example, the bill gives states broad discretion to impose any level of cost-sharing on many Medicaid beneficiaries. It also eliminates any quality assurance standards or monitoring responsibilities for many important health care providers, including managed care organizations and intermediate care facilities for the mentally retarded. It contains no mechanism to ensure that changes in benefits and cost sharing do not jeopardize the sufficiency of coverage.

The Administration believes we can give the states the flexibility they need to manage their Medicaid programs, while maintaining a strong federal-state partnership built on a foundation of shared resources, accountability to the taxpayers, and national protections for the most vulnerable Americans. Despite limited efforts to improve it at the committee state, the bill fails to meet these commitments. Consequently, it remains unacceptable.

WELFARE

As reported by its committees, the House's new bill, H.R. 3507, makes important improvements to the conference report on H.R. 4. It incorporates a number of key changes that the Administration recommended and that were in the National Governors' Association (NGA) and Castle-Tanner proposals. We urge the Committee to build on these bipartisan improvements. The bill, however, does not address several issues of concern, particularly in

In rejecting HR 4, the President singled out a number of provisions that were tough on welfare, instead of tougher work resp.

providing the resources and incentives to protect children and families, ensure accountability, and move people from welfare to work.

Improvements in H.R. 3507

to these provisions in HR 3507

strengthen provisions that are central to work-based reform, such as child care, and to

We appreciate the Committee's efforts to provide additional protections for children and families. These important changes move the legislation much closer to the President's vision of true welfare reform. We are particularly pleased with the following improvements:

As the President said in rejecting H.R. 4, child care is essential to move people from welfare to work.

- Child Care and Work. The bill reflects a better understanding of the resources and flexibility that states will need to implement welfare reform, adding \$4 billion for child care above the level in H.R. 4 -- which lacked adequate child care resources for those required to move from welfare to work and low-income working families at-risk of welfare dependency.
- Food Stamps. The bill removes the annual spending cap on Food Stamps, preserving the program's ability to expand during periods of economic recession and help families when they are most in need.
- Child Nutrition. The bill no longer includes H.R. 4's provisions for a child nutrition block-grant demonstration, which would have undermined the program's ability to respond automatically to economic changes and maintain national nutrition standards.
- Child Support Enforcement. The bill recognizes the importance of child support enforcement to welfare reform and includes every major proposal for child support enforcement reform in the President's bill.
- Child Protection. We commend the Committee for preserving the open-ended nature of Title IV-E foster care and adoption assistance programs, current Medicaid coverage of eligible children, and the national child data collection initiative.
- Supplemental Security Income (SSI). The bill removes the proposed two-tiered benefit system for disabled children receiving SSI, and retains full cash benefits for all eligible children.

The bill makes other improvements that will strengthen states' abilities to move people from welfare to work. It improves the performance bonus provisions by establishing a separate funding stream. It increases the cash block-grant contingency fund modestly and adds a more responsive trigger based on the Food Stamps caseload. And it adopts higher exemptions from the time limit and requirements that teen mothers live at home and stay in school.

We remain pleased that the central elements of the Pres's approach -- time limits, work reqs, the highest pass C&E, + require minor moms to live at home as a cond. of assistance -- are included in this bill.

Concerns With HR 3507 as reported

The bill still lacks other provisions that have earned bipartisan endorsement.

- Size of the cuts. The welfare provisions incorporate all of the cuts that were in the vetoed bill – \$53 billion (excluding Medicaid) over 6 years, under CBO's new baseline. These cuts far exceed those proposed by the NGA or the Administration. Cuts Food Stamps and benefits to legal immigrants are particularly deep. In addition, unlike the Administration's bill, H.R. 3507 bill would allow states to substantially cut their own spending on programs serving low-income families, ~~compounding the impact on poor children and families.~~

- Food Stamps. The bill makes deep cuts in the Food Stamp program, through a cut in benefits to families with high shelter costs and a four-month time limit to childless adults who are not given a work slot. It also would let States replace the Food Stamp program with a block grant, jeopardizing the nutrition and health of millions of children, working families, and the elderly. Lacking an adjustment for inflation, population growth, or economic conditions, the block grant would eliminate the program's ability to respond to economic changes. In addition, it would minimize the differences between "high" and "low" Aid to Families with Dependant Children (AFDC) benefit states, ultimately diverting support away from food assistance.

- Immigrants. The bill does not change the excessively harsh and uncompromising immigration provisions of last year's bill. While we support the strengthening of requirements on the sponsors of immigrants for SSI, Food Stamp, and AFDC, the bill bans SSI and Food Stamps for virtually all legal immigrants, and imposes a 5-year ban on all other Federal programs, including Medicaid, for new immigrants. These ^{with no exception} ~~ban even would cover immigrants who become disabled after entering the country, families with children, or current recipients.~~ _{for} The proposal unfairly shifts costs to states with high numbers of immigrants. Finally, the bill requires virtually all federal, state, and local benefits programs to verify recipients' citizenship and alienage status. These restrictions, especially for school lunch, WIC and public health programs, produce negligible administrative savings while creating new administrative burdens and obstacles to program participation. ^{which would}

The bill

LAST

- Vouchers. ~~We are particularly concerned that H.R. 3507 actually reduces State flexibility by prohibiting states from providing a safety net for children -- by not allowing them to use block grant funds to provide non-cash assistance vouchers for children in families subject to the five-year time limit. H.R. 4 contained no such prohibition, and we cannot understand why the Republican leadership has moved in this direction.~~ ^{at the NGA opposes it}

- Medical Assistance Guarantee. The bill does not maintain the guarantee for medical assistance for all those now eligible or who reach the five-year time limit.

- Protection in Economic Downturn. The bill lacks adequate protection for States in

the event of economic downturns. The contingency fund is too small and does not allow for further expansions (above the \$2 billion cap) during poor economic conditions and periods of increased need.

• Transfers to the Social Services Block-grant (SSBG). We are concerned that the bill provides the proposed cash assistance block grant with transfer authority to the SSBG. Transfers to SSBG could lead states to substitute Federal dollars for State dollars in an array of State social services activities, ~~potentially cutting or even eliminating~~ ^{potentially reducing} the effective State maintenance of effort levels required for the cash block grant.

We also are concerned that the bill repeals the Family Preservation and Support program, which may mean less State spending on abuse and neglect prevention activities. In addition, the Education and Economic Opportunity Committee cut state flexibility to meet the bill's work requirements by raising the weekly number of hours that States must place recipients in work activities and decreasing the period in which a job search may count toward the work rates. Along with constricting State flexibility, these changes would increase costs in the work program.

The Castle-Tanner proposal addresses many of our concerns, and it would strengthen state accountability efforts, welfare to work measures, and protections for children. It provides a foundation on which this Committee should build in order to provide more State flexibility; incentives for AFDC recipients to move from welfare to work; more parental responsibility; and protections for children.

The President has sent Congress a comprehensive welfare reform proposal. It would replace the current system with one that demands responsibility, strengthens families, protects children, and gives States broad flexibility and the needed resources to get the job done. ~~It reflects the principles held by those in and out of Congress who have worked tirelessly to reform the welfare system.~~ We strongly hope for legislation that builds upon these principles, and on the recent bipartisan initiatives from our Nation's governors and moderate Republicans and Democrats in both Houses of Congress. We also strongly support bipartisan efforts of the governors and the Castle-Tanner groups to reform welfare without gutting Medicaid ~~or raising taxes~~.

~~The American people want a welfare bill that honors our values and ensures fiscal integrity; that promotes work and responsibility while protecting children; that supports families who play by the rules and rewards those who work hard to support themselves; and that ensures accountability for use of taxpayer funds. In short, they want real welfare reform.~~ Congress should send the President a stand-alone, bipartisan welfare bill that he can sign. ^{stop holding WR hostage, and} ~~does not die quarter of the year~~

The President and Congress share the goal of a balanced budget, but we have grave concerns about the approach adopted in this bill. The President and the Republican

leadership have more than enough savings in common to balance the budget. Congress should work with the President to give Americans the balanced budget they deserve.

Sincerely,

Jacob J. Lew
Acting Director

IDENTICAL COPIES SENT TO THE HONORABLE JOHN J. MOAKLEY, THE
HONORABLE JOHN R. KASICH, AND THE HONORABLE MARTIN O. SABO

**OFFICE OF INTERGOVERNMENTAL AFFAIRS
DEPARTMENT OF HEALTH AND HUMAN SERVICES**
200 Independence Avenue, SW
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F A X C O V E R S H E E T

DATE: 6/27/96

TO: Bruce Reed

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FAX:

FROM: John Monahan
Director

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FAX: (202) 690-5672

RE:
CC:

Number of pages including cover sheet: 8

Message:

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Melissa S
Joan E.
Wendell P.
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Testimony Submitted to the Senate Committee on Finance
June 13, 1996
Welfare and Medicaid Reform

by

Governor Bob Miller of Nevada
Governor Roy Romer of Colorado
Governor Lawton Chiles of Florida
Governor Tom Carper of Delaware

In February, the Nation's Governors unanimously endorsed proposals to reform our welfare and Medicaid systems. We testified before you with our Republican colleagues on our shared hope for bipartisan reform of the Medicaid and welfare systems this year. Since that time the Republican leadership has introduced S. 1795, a bill to reform the Medicaid and welfare systems. We submit written testimony to offer our comments on this bill.

Medicaid

We want to say in the clearest terms possible: the bill before you does not reflect the NGA agreement as it pertains to Medicaid. We know. We were the governors who negotiated that agreement.

Before we discuss how S. 1795 differs in critical and substantial ways from the NGA agreement, we must say that we are troubled by public statements that have been made about this proposal. The congressional majority took our bipartisan work and spent more than three months developing legislation. During that period there was no contact either by members of the committees or staff with the bipartisan NGA, with Democratic Governors or our staff. While committee staff were drafting this bill, a bipartisan group of governors continued to meet to develop the details of the NGA proposal. We reached greater clarity on issues including the funding formula, the definition of disability, policies on comparability and state-wideness of benefits and policies related to amount, scope and duration of benefits. The results of these negotiations are not included in S. 1795.

We understand and respect the Finance Committee's responsibility and authority to draft Medicaid legislation. Our only objection is to the content of S. 1795 and efforts to describe that bill as the NGA proposal.

How the bill is inconsistent with the NGA agreement on Medicaid

The most obvious failing in the bill is in the financing formula. S. 1795 essentially recreates the block grants in earlier bills, thereby abandoning the NGA policy. The funding formula is critical because a guarantee to provide coverage without sufficient funding is a meaningless guarantee.

The NGA policy calls for a base allocation to each state using 1993, 1994 or 1995 actual Medicaid expenditures. The bill is inconsistent with the policy. The bill uses the 1996 numbers that appeared in the Medigrant bill. While these figures were generated with the input of Republican Governors, Democratic Governors were not invited to participate in this process. Many states have discovered that the figures in the bill do not match any actual data for that state. Actual baselines must be used if the bill is to comply with the NGA policy.

The NGA policy says that the formula for growth must account for estimated changes in each state's caseload. The growth portion of the formula in the bill is completely different. It has two serious flaws. First, the formula in the bill is not based upon an estimate of caseload or changes in case-mix.

This is entirely inconsistent with the NGA policy which is based upon the principle that federal funds should follow the people served by the program.

Second, growth rates in the allocation to each state are severely constrained by floors and ceilings. These constraints prevent states from actually receiving the funds associated with expected caseloads. The floors and ceilings so completely overwhelm the so-called "needs-based formula" that states would not have their needs met at all. At least 15 states are fully capped in advance. No matter how much the expected caseload might increase in Florida or Nevada, those state's allocations will increase by no more than 7.22% per year because that is the program cap. Meanwhile, many other states are guaranteed a significant rate of growth (4.33%) even if they are losing population and caseload.

The NGA policy calls for an umbrella fund that guarantees states a per-beneficiary payment for actual enrollees who were not accounted for in the growth estimates. The fund in S. 1795 is entirely different and inadequate. First, it is impossible for the fund to cover enrollees not included in the estimates because, as noted above, there are no estimates of caseload in the bill's formula. In addition, the umbrella only covers unanticipated caseload for one year. If a state experiences a recession that lasts more than one year (not an uncommon event) the umbrella is of no use. It is inappropriate to require states to cover certain populations and then not provide one dollar of federal support for people whose coverage is "unanticipated."

The NGA policy says that disproportionate share hospital (DSH) funds will not grow for states where DSH accounts for more than 12 percent of the Medicaid program. The bill does not comply with this provision. Instead, even states with excessive DSH programs will have the full growth rate in the formula applied to their DSH funds.

The dynamics of a capped medical assistance program are very different from those of the current Medicaid program. Under current law, if one state receives excess money, either through the DSH program or other means, the burden falls on the federal taxpayer, but not on other states. Under the proposed Medicaid block grant, states would be in competition for limited resources. Where the bill diverges from NGA policy and provides a higher level of funding for certain states, those funds are taken directly from the citizens of another state where they may be needed simply to support a basic Medicaid program.

The NGA formula was crafted with great care to balance legitimate, competing needs. S. 1795 fails to adhere to that formula, and has upset that careful balance. Because the formula has been modified in a manner that will assist certain states, some governors will certainly support the formula in the bill. However, this committee should not interpret support by those governors as a statement that S. 1795 is consistent with the NGA funding principles.

Committee staff has indicated they had no choice but to reject the NGA formula because GAO could not generate state-specific funding estimates using the NGA formula. That complaint rings hollow. The staff made no effort to work with us to clarify the formula. We can only interpret this excuse as a cover for the staff's desire to return to the block grant formula negotiated in a partisan process and rejected by the NGA.

While closer to the NGA proposal in some of its other features, the bill contains other serious flaws in its design of the program. The NGA proposal says that the guarantees of coverage and the set of benefits "remains" for certain populations and certain services. Some of the features of the bill so fundamentally change the nature of that guarantee that one cannot say that those guarantees remain -- certainly not in a form anything like what the NGA proposal contemplated. Specifically, permitting unlimited copayments and deductibles, residency requirements, family financial responsibility, and other similar provisions completely undermine the guarantee of health care services to our most needy citizens.

We raise these issues not because we do not trust states or because we believe the federal government needs to tell states how to administer their programs. Rather, we believe these provisions are important to guarantee the continued commitment of the federal government to this program. If states in difficult budget times can dramatically scale back coverage while receiving the same amount of federal funds, political support for this program at the federal level will wane. We believe there is value in a federally-defined safety-net, while we desire the flexibility to administer our programs in the most appropriate manner. We believe that the flexibility to define away the guarantee of coverage will undermine the program and harm all states.

There are some areas where Democratic Governors fought for a position in the NGA policy, but we were not successful. We knew that, to achieve bipartisan consensus, we needed to give on some issues in order to gain on others. As we read S. 1795, it largely reflects the negotiating position of the Republican Governors when we began bipartisan discussions in November of 1995. Rather than retaining the balance the governors negotiated, the bill picks and chooses issues, adopting the positions Republican Governors felt were most critical, while rejecting the most important issues for the Democratic Governors. Since S. 1795 strays so far from our compromise, we think it is important to bring to the committee's attention some of the issues where Republican Governors prevailed.

S. 1795 changes the federal matching formula, creating the possibility that more than \$120 billion of state funds will be withdrawn from the Medicaid program over the next seven years while states continue to draw federal matching funds. The bill eliminates the guarantee of coverage for poor children age 13 to 18 that is being phased in under current law. It eliminates the standard federal definition of disability that is used to establish Medicaid eligibility. All of these provisions are consistent with our policy, but warrant the same reexamination that you have undertaken with respect to the formula. If the committee is going to consider legislation that is not based upon NGA policy, it should take a close look at each of these issues.

Governors negotiated a Medicaid policy in good faith. This Congress has rewritten our agreement and attempted to pin our bipartisan name on a bill that was written without the participation of a single Democratic Member of Congress or Democratic Governor. We would like very much to work with you on this issue. However, that work needs to proceed on the same bipartisan basis the Governors used. These important issues will never be resolved if partisan politics guide your work.

Welfare

While serious and significant differences remain on how to reform the Medicaid system, the same is not true for welfare.

And although there is no doubt that welfare and Medicaid are inextricably linked in practice, it has not been the position of the NGA that they must be united in one legislative package. We believe that a strategy that insists on linking welfare and Medicaid dooms hope of bipartisan agreement and legislative success for reform of either program.

We believe that the welfare title of the Republican leadership's bill represents strong, positive movement in the welfare debate. S.1795 is significantly better than H.R. 4 in many respects and reflects the bipartisan agreement of Governors in many important areas.

S.1795 includes \$4 billion in additional resources for child care. The NGA bipartisan welfare agreement recommended the inclusion of \$4 billion in additional resources for child care. S.1795 supports governors in their understanding that adequate child care is critical to the success of welfare-to-work efforts. Access to affordable, quality child care is the number one barrier to self-sufficiency faced by mothers currently receiving benefits.

S.1795 includes \$2 billion for an economic contingency funds for states. NGA recommended that there be at least \$2 billion in economic protection for states in times of economic downturns and/or increases in unemployment or child poverty. S. 1795 supports the funding levels recommended by the NGA and includes a more responsive trigger, consistent with the NGA agreement.

S. 1795 includes additional resources for performance incentives for states. The NGA proposal recommended the inclusion of incentives in the form of cash bonuses to states that exceed specified employment-related performance target. Governors believe that, along with state sanctions for poor performance, there should be rewards for states that perform well.

There are, however, some areas where S. 1795 does not reflect the NGA agreement.

S. 1795 does not include the NGA recommendations on how to measure work participation.

Governors believe that in order to measure work participation states must count individuals who leave welfare for work. If states are not permitted to count persons who leave the roles to go to work in the work participation rate, the work measure is flawed and states' ability to succeed according to prescribed participation rates will be severely diminished. We urge Congress to revise the work participation calculation to reflect the NGA agreement.

S. 1795 caps the excess shelter deduction in the Food Stamp Program. Although the Food Stamp Program is not within the jurisdiction of the Finance Committee, it is important to note that S. 1795 does not reflect the NGA agreement in this area.

NGA recommended that the cap on the shelter deduction included in H.R. 4 be rejected by Congress. A cap on the excess shelter deduction in the Food Stamp Program would have a disproportionate impact on the poorest families with children and would result in over a \$1 billion more in savings from the Food Stamp Program. We urge Congress to eliminate the cap on the excess shelter deduction in the Food Stamp Program.

S. 1795 includes unnecessary restrictions on states' access to the economic contingency fund.

The NGA policy supports the \$2 billion contingency fund included in S. 1795, however, S. 1795 includes additional restrictions on states' access to the contingency fund not supported by NGA policy. The contingency fund must be adequately funded and appropriately responsive to states' economic circumstances. We urge Congress to eliminate the unnecessary restrictions on states ability to draw down assistance.

S. 1795 includes a 20 percent reduction in funds for the Social Services Block Grant (SSBG).

States use a significant portion of their SSBG funds for child care assistance for low income families. It is counterintuitive to include new money for child care in one instance and snatch it away in another. We urge you to reject the additional cuts in the Social Services Block Grant.

S. 1795 includes new restrictions on states' abilities to provide services to families. The NGA supports time-limits as applied to cash assistance. The NGA policy does not support the application of a time-limit on non-cash assistance. S. 1795 would prohibit states from using the block grant for important work supports such as transportation vouchers or job retention counseling. It would also prohibit state discretion to provide in-kind services in particular circumstances. We urge Congress to impose the time-limit on cash assistance only.

Although we have used this opportunity to discuss some of the remaining issues on welfare reform, our primary message on welfare continues to be that we believe bipartisan welfare reform is within reach. Congress has come a great distance on welfare in the last year and S. 1795 is consistent with the NGA welfare policy in many important areas. We urge Congress begin bipartisan discussions on welfare and to move a welfare bill as soon as possible.

It has always been our hope that legislation to reform both the welfare and Medicaid programs could be enacted this year. The content of S. 1795 suggests that the governors' proposal on welfare is within reach, while our proposal on Medicaid is not likely to be adopted by this Congress. We would be very disappointed to see welfare reform lost in a battle over Medicaid. Therefore, unless this Congress is willing to substantially modify its approach to Medicaid, we would urge you to enact welfare reform in a separate bill and allow states to continue our efforts to improve this program.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 5015
FILE NO: 2583

URGENT

7/15/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 13

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FROM: Janet FORSGREN *Janet Forsgren* (for) Assistant Director for Legislative Reference

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SUBJECT: HHS Discussion Paper on House and Senate Welfare Reform Bills (HR 3507, S 1795)

URGENT

DEADLINE: 1 PM Monday, July 15, 1996

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

****** COMMENTS: HHS has requested that we clear this document on welfare reform this afternoon. ******

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THE SENATE REPUBLICAN WELFARE BILL - S. 1795

The Senate Republican welfare bill (H.R. 3507) as reported by the Finance Committee contains several provisions which are improvements over the conference bill, H.R. 4. The bill incorporates a number of key changes made by the National Governors' Association (NGA) as well as other modifications, including several that were not included in the House Republican welfare bill (H.R. 3507). However, the bill does not address several issues that are of concern to the Administration, particularly in providing states with the resources and incentives to protect children, ensure accountability, and move people from welfare to work.

Improvements to H.R. 4

Protecting Children and Families

Child care. Like the NGA proposal, the Senate Republican welfare bill increases child care funding levels. The bill increases mandatory authorization by \$4 billion over the conference bill and \$4.5 billion above current law (under CBO estimates). The bill would also maintain the child care health and safety protections contained in current law.

Child Welfare. Whereas the conference bill block granted administration and child placement services funding and the NGA proposed an optional block grant, the Senate Republican bill retains current law child protection programs.

SSI children. Like the conference bill, the Senate Republican bill would establish a new disability definition for children. Under this bill, the new definition would be effective immediately for new applicants and within one year for current beneficiaries. Instead of the 2-tiered benefit system proposed under the conference bill, the Republican bill adopts the NGA proposal for full cash benefits to all eligible children.

Contingency Fund. As under the NGA proposal, the Senate Republican welfare bill raises the cap on the contingency fund from \$1 billion to \$2 billion to provide states with more protection in economic downturns. The proposal also adds a new trigger mechanism based on the Food Stamp caseload.

Exemptions to the Cash Assistance Time Limit. The bill increases from 15% to 20% the proportion of the caseload that States can exempt from the 5-year time limit on cash assistance, giving states the ability to make more allowances for adults who are unable to work or find work.

Food Stamp Program. The funding level for the optional food stamp block grant is adjusted to prevent "windfalls" to states who elect the block grant option. The adjustable cap on food stamp spending is deleted, ensuring that additional benefits would be available when caseloads increase. States are allowed to exempt from disqualification due to hardship up to 10 percent of able-bodied childless adults who are not working or participating in a work program and to permit one month of job search or job search training. The cap on the excess shelter deduction is retained but set at a higher level than the conference bill.

Child Nutrition Program. The Senate Republican bill prohibits conditioning food assistance or citizenship or immigrant status. There is no option for states to receive school nutrition funding in the

form of a block grant. Although reduced from current law levels, the reimbursement rates for the Summer Food Service Program and Family Day Care Homes are higher than the conference agreement

State Accountability

Objective Criteria. The Senate bill requires states to establish objective criteria for delivery of benefits and ensuring equitable treatment. The language specifies that families in similar circumstances should be treated equally and provides the opportunity for a fair hearing for those whose assistance is denied, reduced, or terminated. In addition, it includes mechanisms to enforce these provisions.

Transfers. Unlike H.R. 4, states would only be able to transfer cash assistance block grant funds to the child care block grant. This provision strengthens states' commitment to providing resources to poor families and children.

Requiring Work

Performance Bonus. Instead of simply reducing state maintenance of effort requirements, the bill provides \$800 million in new federal funds by 2002 for states that perform well on employment-related criteria.

Work Requirements for Mothers with Young Children. Instead of requiring all adult recipients to work 35 hours per week, the Senate Republican bill recognizes that single parents with pre-school age children need part-time options on work. Single-parent families with children under age 6 could work 20 hours per week. In addition, single parents with children under 11 who are unable to find child care are exempt from sanctions.

Education Activities. The bill allows educational activities to count for teens who have not finished school to count toward the work requirement.

MOC → 80%

Issues in the Senate Republican Bill

Protecting Children and Families

Spending Cuts. Federal spending for poor families and children would be cut by \$53 billion in the Senate Republican welfare bill — \$10 billion more than the level of cuts in the NGA bill and \$15 billion more than the cuts in the Administration's bill. The proposal doubles the cuts to the social services block grant (from 10 to 20 percent). In addition, unlike the Administration's bill, the Republican bill would also allow states to reduce their own spending on programs serving low-income families. Thus, the differences in spending on poor families is much greater than the federal spending levels indicate. NO

Medicaid. The bill does not maintain the guarantee of medical coverage for all those currently eligible or those who reach the 5-year time limit, especially mothers (non-pregnant) and teenage children. However, the Senate bill does require states to provide transitional Medicaid coverage for families leaving welfare for work.

Safety Net for Children. Unlike H.R. 4, states are not allowed to use block grant funds to provide non-

cash assistance and vouchers to meet the basic needs of children in families who are subjected to the 5-year time limit. The bill also does not require states to provide vouchers to children if they set time limits shorter than five years.

Contingency Fund. The Senate bill does not provide adequate protection for states in the event of economic downturns. The contingency fund is set at too low a level and does not allow for further expansion (above the \$2 billion cap) during poor economic conditions and periods of increased need. By contrast, during the last recession AFDC benefit payments rose by \$6 billion cumulatively. In addition, the fund is temporary and would be eliminated after FY 2001.

Food Stamps. The bill would make deep cuts in food stamp benefits over six years. CBO estimates the direct cuts in Title X at \$xx billion over seven years, \$xx billion more than the CBO estimate for the Food Stamp subtitle in the Administration's bill. (These estimates do not include the Food Stamp effects from other titles of the bills.) In addition:

- The bill retains an option for states to replace the Food Stamp Program with a block grant: if the state has fully implemented an Electronic Benefit Transfer (EBT) system, has a payment error rate less than six percent, or pays the federal government the product of its total issuance times the difference between its error rate and six percent. A food stamp block grant option would weaken the national nutrition safety net and eliminate the program's ability to respond to economic changes.
- The bill retains the cap on the shelter deduction and freezes it at \$342 after January 1, 1997. Food stamp families who face relatively high shelter costs — mostly families with children — would receive fewer benefits.
- The bill limited to four months the eligibility of unemployed food stamp recipients aged 18-50 without children — without giving those who cannot find jobs the opportunity to work off their benefits. CBO projects that xxx,000 people who are willing to work will lose benefits under this provision in the average month.

Immigration. While the NGA bill was silent, this bill adopts the immigration provisions in H.R. 4, thereby going well beyond the immigration bills passed in both the House and the Senate.

- The bill speeds up the implementation date of the SSI and Food Stamp eligibility bans, making it virtually impossible for most immigrants to attain citizenship before losing benefits.
- This bill makes most legal immigrants ineligible for SSI and Food Stamps, even severely disabled children and adults, and elderly immigrants, who have never had a sponsor and have no other means of support. The bill makes most legal immigrants entering after the date of enactment ineligible for most federal means-tested programs for 5 years after entry, even those who have never had a sponsor and have no other means of support, and become severely disabled after entry.
- It requires virtually every federal, state, and local benefit program to verify citizenship and alienage status of every applicant, including all children under the school lunch program, WIC, Maternal and Child Health Block Grant, Social Services Block, Head Start, and similar

programs financed by states and localities. This would greatly expand the paperwork burdens and would create greater future health and social costs. Denying WIC to pregnant immigrant women, for example, is likely to increase the number of babies born with low birth weight, babies that will then need expensive neo-natal care. The bill also eliminates eligibility of legal immigrants for SSI and Food Stamps immediately at the time of redetermination, rather than one year after enactment.

Child Support. The bill eliminates the \$50 pass-through for child support payments.

NO / **Inter-state migrants.** The bill also specifically allows states to provide lower benefits to applicants/recipients migrating in from other states.

? / **SSI Eligibility.** The bill delays SSI eligibility until the first day of the first month following month of application.

State Accountability

NO **Federal/State Partnership.** The Senate bill severely weakens the federal-state partnership — the current system of matching has been the “glue” that holds this partnership together. There also is not adequate accountability for taxpayer dollars nor adequate protections against worker displacement.

State Maintenance of Effort. Under the Republican bill, states could reduce the resources they provide to poor families and children. Although the maintenance of effort requirement is increased to 80 percent and the definition of what counts toward the requirement is tightened somewhat (compared to the House bill), spending states can count toward the requirement remains too broadly defined. States could count spending on child welfare, juvenile justice and other services unrelated to cash assistance, if they previously drew down Emergency Assistance for such funds. In addition, states could lower their maintenance of effort provision by up to 8 percentage points for exceeding employment-related performance measures.

Requiring Work

NO **Resources for the Work Program.** Unlike the Administration's bill, the Senate bill does not provide adequate resources for states to meet the work requirements. The Senate bill increases the work participation rates above the levels in H.R. 4 while providing no resources for states to meet these more stringent rates. Based on HHS estimates (which are typically lower than CBO for work program costs), the Senate Republican bill would provide \$10 billion less over six years than is required to meet the bill's work requirements and maintain the current level of cash assistance benefits to poor families. Moreover, the Senate bill would result in a \$0.5 billion shortfall in child care resources (assuming states maintain their current level of cash assistance benefits and do not transfer amounts from the cash block grant to child care).

NO **Caseload Reductions.** The Republican bill is still not serious about requiring work and could even give states a perverse incentive simply to cut people off assistance. A state's minimum work participation rate would be reduced for every percentage point that the state's total caseload dropped from 1995 levels, net of reductions due to federal law such as the 5-year time limit. Thus, if a state's welfare caseload dropped by 25 percent from its 1995 levels due solely to a favorable economy, the state's

minimum work participation rate would be reduced by 25 percentage points. The rate for this state in 1999 would drop from 30 percent to only 5 percent. In addition, countable caseload reductions would also be net of reductions due to state laws that diverted families from initially qualifying for AFDC -- such as reducing benefit levels. However, caseload reductions due to any state laws that affect the eligibility of families after starting to receive assistance -- such as a 6-month time limit -- would be countable.

Provisions Maintained from H.R. 4

Provs? In addition to those outlined above, the Republican bill contains the same provisions as H.R. 4 in several areas. These include: the family cap, the illegitimacy bonus, the absence of personal responsibility contracts, penalties on states, exemptions from the work requirements for the families with children under one, supplemental growth fund, allocation formula for block grant funds, research and evaluation, and waivers.

THE HOUSE REPUBLICAN WELFARE BILL - H.R. 3507

The House Republican welfare bill (H.R. 3507) as reported by the Ways and Means, Economic and Educational Opportunities (EEO), and Commerce Committees contains several provisions which are improvements over the conference bill, H.R. 4. The bill incorporates a number of key changes made by the National Governors' Association (NGA) as well as other modifications. However, the bill does not address several issues that are of concern to the Administration, particularly in providing states with the resources and incentives to protect children, ensure accountability, and move people from welfare to work. The Administration also supports several provisions in the Senate Republican welfare bill (S. 1795) that were not included in H.R. 3507.

Improvements to H.R. 4

Protecting Children and Families

Child care. Like the NGA proposal, the House Republican welfare bill increases child care funding levels. The bill increases mandatory authorization by \$4 billion over the conference bill and \$4.5 billion above current law (under CBO estimates). The bill would also maintain the child care health and safety protections contained in current law.

Child Welfare. Whereas the conference bill block granted administration and child placement services funding and the NGA proposed an optional block grant, the House Republican bill retains current law on open-ended entitlements without a block grant or a block grant option. It does block grant several child welfare programs that are discretionary or capped entitlements under current law.

SSI children. Like the conference bill, the House Republican bill would establish a new disability definition for children. Under this bill, the new definition would be effective immediately for new applicants and within one year for current beneficiaries. Instead of the 2-tiered benefit system proposed under the conference bill, the Republican bill adopts the NGA proposal for full cash benefits to all eligible children.

Contingency Fund. As under the NGA proposal, the House Republican welfare bill raises the cap on the contingency fund from \$1 billion to \$2 billion to provide states with more protection in economic downturns. The proposal also adds a new trigger mechanism based on the Food Stamp caseload.

Exemptions to the Cash Assistance Time Limit. The bill increases from 15% to 20% the proportion of the caseload that States can exempt from the 5-year time limit on cash assistance, giving states the ability to make more allowances for adults who are unable to work or find work.

Food Stamp Program. (FORTHCOMING)

Child Nutrition Program. (FORTHCOMING)

State Accountability

Objective Criteria. The House bill requires states to establish objective criteria for delivery of benefits and ensuring equitable treatment. However, the language does not clearly specify that families in

similar circumstances should be treated equally or provide the opportunity for a fair hearing for those whose assistance is denied, reduced, or terminated. Moreover, it is not clear how this provision would be enforced.

Requiring Work

Performance Bonus. Instead of simply reducing state maintenance of effort requirements, the bill provides \$800 million in new federal funds by 2002 for states that perform well on employment-related criteria.

Work Requirements for Mothers with Young Children. Instead of requiring all adult recipients to work 35 hours per week, the House Republican bill recognizes that single parents with pre-school age children need part-time options on work. Single-parent families with children under age 6 could work 20 hours per week. In addition, single parents with children under 11 who are unable to find child care are exempt from sanctions.

Education Activities. The bill allows educational activities to count for teens who have not finished school to count toward the work requirement.

Issues in the House Republican Bill

Protecting Children and Families

Spending Cuts. Federal spending for poor families and children would be cut by \$53 billion in the House Republican welfare bill -- \$10 billion more than the level of cuts in the NGA bill and \$15 billion more than the cuts in the Administration's bill. In addition, unlike the Administration's bill, the Republican bill would also allow states to substantially reduce their own spending on programs serving low-income families. Thus, the differences in spending on poor families is much greater than the federal spending levels indicate.

Medicaid. The bill does not maintain the guarantee of medical coverage for all those currently eligible or those who reach the 5-year time limit, especially mothers (non-pregnant) and teenage children. In addition, the House bill as reported out of the Ways and Means Committee does not require states to provide transitional Medicaid coverage for families leaving welfare for work. However, the House bill as reported out of the Commerce Committee would provide transitional Medicaid coverage.

Safety Net for Children. Unlike H.R. 4, states are not allowed to use block grant funds to provide non-cash assistance and vouchers to meet the basic needs of children in families who are subjected to the 5-year time limit. The bill also does not require states to provide vouchers to children if they set time limits shorter than five years.

Contingency Fund. The House bill does not provide adequate protection for states in the event of economic downturns. The contingency fund is set at too low a level and does not allow for further expansion (above the \$2 billion cap) during poor economic conditions and periods of increased need. By contrast, during the last recession AFDC benefit payments rose by \$6 billion cumulatively. In addition, the fund is temporary and would be eliminated after FY 2001.

Food Stamps. (FORTHCOMING)

Immigration. While the NGA bill was silent, this bill adopts the immigration provisions in H.R. 4, thereby going well beyond the immigration bills passed in both the House and the Senate.

- The bill speeds up the implementation date of the SSI and Food Stamp eligibility bans, making it virtually impossible for most immigrants to attain citizenship before losing benefits.
- This bill makes most legal immigrants ineligible for SSI and Food Stamps, even severely disabled children and adults, and elderly immigrants, who have never had a sponsor and have no other means of support. The bill makes most legal immigrants entering after the date of enactment ineligible for most federal means-tested programs for 5 years after entry, even those who have never had a sponsor and have no other means of support, and become severely disabled after entry.
- It requires virtually every federal, state, and local benefit program to verify citizenship and alienage status of every applicant, including all children under the school lunch program, WIC, Maternal and Child Health Block Grant, Social Services Block, Head Start, and similar programs financed by states and localities. This would greatly expand the paperwork burdens and would create greater future health and social costs. Denying WIC to pregnant immigrant women, for example, is likely to increase the number of babies born with low birth weight, babies that will then need expensive neo-natal care. The bill also eliminates eligibility of legal immigrants for SSI and Food Stamps immediately at the time of redetermination, rather than one year after enactment.

Child Support. The bill eliminates the \$50 pass-through for child support payments.

Inter-state migrants. The bill also specifically allows states to provide lower benefits to applicants/recipients migrating in from other states.

SSI Eligibility. The bill delays SSI eligibility until the first day of the first month following month of application.

State Accountability

Federal/State Partnership. The House bill severely weakens the federal-state partnership — the current system of matching has been the “glue” that holds this partnership together. There also is not adequate accountability for taxpayer dollars nor adequate protections against worker displacement.

State Maintenance of Effort. Under the Republican bill, states could dramatically reduce the resources they provide to poor families and children:

- The maintenance of effort standard is set at 75 percent and spending states can count toward the requirement is broadly defined. States could count spending on child welfare, juvenile justice and other services unrelated to cash assistance, if they previously drew down Emergency Assistance for such funds. In addition, states could lower their maintenance of effort provision by up to 8 percentage points for exceeding employment-related performance measures.

July 12, 1996

- States would be able to transfer up to 30 percent of their cash assistance block grant to other programs — potentially reducing the effective maintenance of effort requirement to 45 percent or less.

Use of Funds. States could use Federal funds for a broad range of purposes, including juvenile justice activities and building youth prisons.

Requiring Work

Work Requirements. The House bill as passed by the Ways and Means Committee established more reasonable work requirements than H.R. 4. Instead of requiring all adult recipients to work 35 hours per week, it would require single parents to work 25 hours and 2-parent families to work 35 hours a week. In contrast, the House bill as passed by the EEO Committee would increase the number of hours of work to H.R. 4 levels and the participation rates to levels that are even greater than H.R. 4. Along with constricting State flexibility, as discussed below, these changes would significantly increase work and child care costs.

Resources Work Program. Unlike the Administration's bill, the House bill does not provide adequate resources for states to meet the work requirements. Based on HHS estimates (which are typically lower than CBO for work program costs), the House Republican bill as passed by the Ways and Means Committee would provide \$7 billion less over six years than is required to meet the bill's work requirements and maintain the current level of cash assistance benefits to poor families. The shortfall in funding for work in the House bill as passed by the EEO Committee is even greater — \$10 billion over six years — because of the increased work requirements it would impose. Moreover, while the Ways and Means Committee bill provides sufficient child care resources to meet the work requirements, the EEO Committee bill would result in a \$0.5 billion shortfall in child care resources (assuming states maintain their current level of cash assistance benefits and do not transfer amounts from the cash block grant to child care).

Limitations on Job Search. The House bill as passed by the EEO Committee would follow H.R. 4 and limit job search to 4 weeks a year. In contrast, the House Republican bill as passed by the Ways and Means Committee adopts the NGA proposal and allows job search up to 12 weeks a year.

Caseload Reductions. The Republican bill is still not serious about requiring work and could even give states a perverse incentive simply to cut people off assistance. A state's minimum work participation rate would be reduced for every percentage point that the state's total caseload dropped from 1995 levels, net of reductions due to federal law such as the 5-year time limit. Thus, if a state's welfare caseload dropped by 25 percent from its 1995 levels due solely to a favorable economy, the state's minimum work participation rate would be reduced by 25 percentage points. The rate for this state in 1999 would drop from 30 percent to only 5 percent. In addition, countable caseload reductions would also be net of reductions due to state laws that diverted families from initially qualifying for AFDC — such as reducing benefit levels. However, caseload reductions due to any state laws that affect the eligibility of families after starting to receive assistance — such as a 6-month time limit — would be countable.

Provisions Maintained from H.R. 4

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In addition to those outlined above, the Republican bill contains the same provisions as H.R. 4 in several areas. These include: the family cap, the illegitimacy bonus, the absence of personal responsibility contracts, penalties on states, exemptions from the work requirements for the families with children under one, supplemental growth fund, allocation formula for block grant funds, research and evaluation, and waivers.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 16, 1996

The Honorable Gerald B. H. Solomon
Chairman
Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to transmit the Administration's views on the welfare provisions of H.R. 3734, the "Welfare and Medicaid Reform Act of 1996." We understand that the Rules Committee plans to separate the welfare and Medicaid portions of the bill and consider only the welfare provisions on the House floor.

We are pleased that the Congress has decided to separate welfare reform from a proposal to repeal Medicaid's guarantee of health care for the elderly, poor, pregnant and people with disabilities. We hope that removing this "poison pill" from welfare reform is a breakthrough that indicates that the Congressional leadership is serious about passing bipartisan welfare reform this year.

It is among the Administration's highest priorities to achieve bipartisan welfare reform reflecting the principles of work, family, and responsibility. For the past three and a half years, the President has demonstrated his commitment to enacting real welfare reform by working with Congress to create legislation that moves people from welfare to work, encourages responsibility, and protects children. The Administration sent to Congress a stand-alone welfare bill that requires welfare recipients to work, imposes strict time limits on welfare, toughens child support enforcement, is fair to children, and is consistent with the President's commitment to balance the budget.

The Administration is also pleased that the bill makes many of the important improvements to H.R. 4 that we recommended -- improvements that were also included in the bipartisan National Governors' Association and Castle-Tanner proposals. We urge the Committee to build upon these improvements. At the same time, however, the Administration is deeply concerned about certain provisions of H.R. 3734 that would adversely affect benefits for food stamp households and legal immigrants, as well as with the need for strong State accountability and flexibility. And, the bill would still raise taxes on millions of working families by cutting the Earned Income Tax Credit (EITC).

Improvements contained in H.R. 3734

We appreciate the Committees' efforts to strengthen provisions that are central to work-based reform, such as child care, and to provide some additional protections for children and families. In rejecting H.R. 4, the President singled out a number of provisions that were tough on children and did too little to move people from welfare to work. H.R. 3734 includes important changes to these provisions that move the legislation closer to the President's vision of true welfare reform. We are particularly pleased with the following improvements:

- Child Care. As the President has insisted throughout the welfare reform debate, child care is essential to move people from welfare to work. The bill reflects a better understanding of the child care resources that States will need to implement welfare reform, adding \$4 billion for child care above the level in H.R. 4. The bill also recognizes that parents of school-age children need child care in order to work and protect the health and safety of children in care.
- Food Stamps. The bill removes the annual spending cap on Food Stamps that was included in H.R. 4, preserving the program's ability to expand during periods of economic recession and help families when they are most in need.
- Child Nutrition. The bill no longer includes the H.R. 4 provisions for a child nutrition block-grant demonstration, which would have undermined the program's ability to respond automatically to economic changes and maintain national nutrition standards.
- Child Protection. We commend the Committee for preserving the open-ended nature of Title IV-E foster care and adoption assistance programs, current Medicaid coverage of eligible children, and the national child data collection initiative.
- Supplemental Security Income (SSI). The bill removes the proposed two-tiered benefit system for disabled children receiving SSI that was included in H.R. 4, and retains full cash benefits for all eligible children.
- Work Performance Bonus. We commend the Committee for giving states an incentive to move people from welfare to work by providing \$1 billion in work performance bonuses by 2003. This provision is an important element of the Administration's bill, and will help change the culture of the welfare office.
- Contingency Fund. The bill adopts the National Governors Association (NGA) recommendation to double the size of the Contingency Fund to \$2 billion, and add a more responsive trigger based on the Food Stamp caseload changes. Further steps the Congress should take to strengthen this provision are outlined below.
- Hardship Exemption. We commend the Committee for following the NGA recommendation and the Senate-passed welfare reform bill by allowing states to exempt up to 20% of hardship cases that reach the five-year time limit.

We remain pleased that Congress has decided to include central elements of the President's approach -- time limits, work requirements, the toughest possible child support enforcement, requiring minor mothers to live at home as a condition of assistance -- in this legislation.

The Administration strongly supports several provisions included in S. 1795, as reported by the Senate Finance Committee. These provisions include: allowing transfers only to the child care block grant, increasing the maintenance of effort requirement with a tightened definition of what counts toward this requirement, improving the fair and equitable treatment and enforcement language, and eliminating the child protection block grant. We urge the Congress to include these provisions in H.R. 3734.

Key Concerns With H.R. 3734

The Administration however remains deeply concerned that the bill still lacks other important provisions that have earned bipartisan endorsement.

- **Size of the cuts.** The welfare provisions incorporate most of the cuts that were in the vetoed bill -- \$59 billion over 6 years (including the EITC and related savings in Medicaid) over six years. These cuts far exceed those proposed by the NGA or the Administration. Cuts in Food Stamps and benefits to legal immigrants are particularly deep. The President's budget demonstrates that cuts of this size are not necessary to achieve real welfare reform, nor are they needed to balance the budget.
- **Food Stamps.** The Administration strongly opposes the inclusion of a Food Stamp block grant, which has the potential to seriously undermine the Federal nature of the program, jeopardizing the nutrition and health of millions of children, working families, and the elderly, and eliminating the program's ability to respond to economic changes. The Administration is also concerned that the bill makes deep cuts in the Food Stamp program, including a cut in benefits to households with high shelter costs that disproportionately affects families with children, and a four-month time limit on childless adults who are willing to work, but are not offered a work slot.
- **Legal Immigrants.** The bill retains the excessively harsh and uncompromising immigration provisions of last year's vetoed bill. While we support the strengthening of requirements on the sponsors of legal immigrants applying for SSI, Food Stamps, and AFDC, the bill bans SSI and Food Stamps for virtually all legal immigrants, and imposes a five-year ban on all other Federal programs, including non-emergency Medicaid, for new legal immigrants. These bans would even cover legal immigrants who become disabled after entering the country, families with children, and current recipients. The bill would deny benefits to 0.3 million immigrant children and would affect many more children whose parents are denied assistance. The proposal unfairly shifts costs to States with high numbers of legal immigrants. In addition, the bill requires virtually all Federal, State, and local benefits programs to verify recipients' citizenship or alien status. These mandates would create significant administrative burdens for State, local, and non-profit service providers, and barriers to participation for citizens.

- Medical Assistance Guarantee. Even after the proposed removal of the Medicaid reconciliation provisions from H.R. 3734, the Administration opposes provisions that do not guarantee continued Medicaid eligibility when States change AFDC rules. Specifically, we are concerned that families who reach the 5 year time limit or additional children born to families that are already receiving assistance could lose their Medicaid eligibility and would be unable to receive the health care services that they need.
- Protection in Economic Downturn. Although the contingency fund is twice the size of that contained in the vetoed bill, it still does not allow for further expansions during poor economic conditions and periods of increased need. We are also concerned about provisions that reduce the match rate on contingency funds for states that access the fund for periods of less than one year.
- State Maintenance of Effort. Under H.R. 3437, States could reduce the resources they provide to poor children. We are deeply concerned that the bill provides the proposed cash assistance block grant with transfer authority to the Social Services Block Grant (SSBG). Transfers to SSBG could lead States to substitute Federal dollars for State dollars in an array of State social services activities, potentially cutting the effective State maintenance of effort levels required for the cash block grant.
- Resources for Work. Based on Congressional Budget Office (CBO) estimates, H.R. 3734 would leave states with a \$9 billion shortfall over six years in resources for work if they maintained their current level of cash assistance. Moreover, the Economic and Educational Opportunity Committee increased this shortfall and cut State flexibility by raising the weekly number of hours that States must place recipients in work activities and increasing the participation rates. The Economic and Educational Opportunities amendments would also create a shortfall in child care funding. As CBO has noted, most states would probably accept block grant penalties rather than meet the bill's participation rates and truly refocus the system on work.
- Vouchers. The bill actually reduces State flexibility by prohibiting States from using block grant funds to provide vouchers to children whose parents reach the time limit. H.R. 4 contained no such prohibition, and the NGA opposes it. We strongly urge the adoption of the voucher language that protects children similar to that in the Administration's bill and Castle-Tanner.
- Worker Displacement. We are deeply concerned that the bill does not include adequate protections against worker displacement. Workers are not protected from partial displacement such as reduction in hours, wages, or benefits, and the bill does not establish any avenue for displaced employees to seek redress.
- Family Caps. The House bill reverts back to the opt-out provision on family caps which would restrict State flexibility in this area. The Administration, as well as NGA, seeks complete State flexibility to set family cap policy.

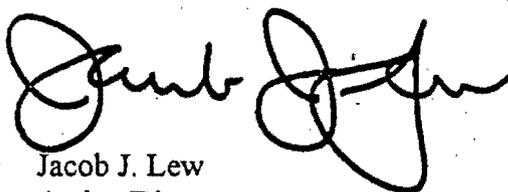
- EITC. The Administration opposes the provisions in H.R. 3734 that increase the EITC phase-out rates thereby raising taxes on more than four million low-income working families, with seven million children. In addition, the budget resolution instructs the revenue committees to cut up to \$18.5 billion more from the EITC. Thus, EITC cuts could total over \$20 billion, and such large increases on working families are particularly ill-conceived when considered in the context of real welfare reform -- that is, encouraging work and making work pay."

We are also concerned that the bill repeals the Family Preservation and Support program, which may mean less State spending on abuse and neglect prevention activities.

We strongly support the bipartisan welfare reform initiatives from moderate Republicans and Democrats in both Houses of Congress. The Castle-Tanner proposal addresses many of our concerns, and it would strengthen State accountability efforts, welfare to work measures, and protections for children. It provides a foundation on which this Committee should build in order to provide more State flexibility; incentives for AFDC recipients to move from welfare to work; more parental responsibility; and protections for children. It is a good strong bill that would end welfare as we know it. Castle-Tanner provides the much needed opportunity for a real bipartisan compromise and should be the basis for a quick agreement between the parties.

The President stands ready to work with the Congress to address the outstanding concerns so that we can enact a strong bipartisan welfare reform bill to replace the current system with one that demands responsibility, strengthens families, protects children, and gives States broad flexibility and the needed resources to get the job done.

Sincerely,



Jacob J. Lew
Acting Director

IDENTICAL COPIES SENT TO THE HONORABLE JOHN J. MOAKLEY,
THE HONORABLE JOHN R. KASICH, AND THE HONORABLE MARTIN O. SABO



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 18, 1996

The Honorable Pete V. Domenici
Chairman, Committee on the Budget
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to transmit the Administration's views on S. 1956, the "Personal Responsibility, Work Opportunity, and Medicaid Restructuring Act of 1996."

We understand that the Senate Republican leadership plans to move to strike the Medicaid provisions of this reconciliation legislation -- leaving a welfare-only bill for Senate floor consideration.

We are pleased with this decision to separate welfare reform from provisions to repeal Medicaid's guarantee of health care for the elderly, the poor, pregnant women, and people with disabilities. We hope that removing this "poison pill" from welfare reform is a breakthrough that shows that the Republican leadership seriously wants to pass bipartisan welfare reform this year.

Enacting bipartisan welfare reform reflecting the principles of work, family, and responsibility is among the Administration's highest priorities. For the past three-and-a-half years, the President has demonstrated his commitment to enacting real welfare reform by working with Congress to enact legislation that moves people from welfare to work, encourages responsibility, and protects children. The Administration sent Congress a stand-alone welfare bill that requires welfare recipients to work, imposes strict time limits on welfare, toughens child support enforcement, is fair to children, and is consistent with the President's commitment to balance the budget.

The Administration is pleased that the bill makes many of the important improvements to H.R. 4 that we recommended -- improvements also included in the bipartisan National Governors' Association (NGA) and Breaux-Chafee proposals. The Senate bill improves upon the bill that the House is now considering. We urge the Senate to build on these improvements, and to continue the bipartisan spirit displayed in last year's debate on welfare reform. At the same time, however, the Administration is deeply concerned about certain provisions of S. 1956 that would adversely affect benefits for Food Stamp households and legal immigrants, as well as the need for strong State accountability and flexibility. And, the bill would still raise taxes on millions of workers by cutting the Earned Income Tax Credit (EITC).

Improvements Contained in S. 1956

We appreciate the Finance and Agriculture Committees' efforts to strengthen provisions central to work-based reform, such as child care, and to provide additional protections for children and families. In rejecting H.R. 4, the President singled out a number of provisions that were tough on children and did too little to move people from welfare to work. S. 1956 includes important changes to these provisions that move the legislation closer to the President's vision of true welfare reform. We are particularly pleased with the following improvements:

- Child Care. As the President has insisted throughout the welfare reform debate, child care is essential to move people from welfare to work. The bill reflects a better understanding of the child care resources that States will need to implement welfare reform, adding \$4 billion for child care above the level in H.R. 4. The bill also recognizes that parents of school-age children need child care in order to work.
- Food Stamps. The bill removes the annual spending cap on Food Stamps, preserving the program's ability to expand during periods of economic recession and help families when they are most in need. We are concerned, however, with other Food Stamp proposals, as discussed below.
- Maintenance of Effort. The Administration strongly supports the Finance Committee's changes to State maintenance of effort (MOE) and transfer provisions and believes these are critical elements of bipartisan welfare reform. The Committee removed the objectionable transfer authority to the Title XX Social Services Block Grant and other programs and would allow transfers to child care only. In addition, the Committee restored the 80 percent MOE level in last year's Senate bill and tightened the definition of what counts toward this requirement.
- Work Performance Bonus. We commend the Committee for giving States an incentive to move people from welfare to work by providing \$1 billion in work program performance bonuses by 2003. This provision was an important element of last year's Senate bill and the Administration's bill, and will help change the culture of the welfare office.
- Contingency Fund. The bill adopts the NGA recommendation to double the Contingency Fund to \$2 billion, and add a more responsive trigger based on the Food Stamp caseload. Below, the Administration recommends further steps that Congress should take to strengthen this provision.
- Equal Protections. The Committee includes provisions that would require States to establish objective criteria for delivery of benefits and to ensure equitable treatment. We are pleased that the Committee also incorporates appropriate State accountability measures.

- Hardship Exemption. We commend the Finance Committee for following the NGA recommendation and restoring last year's Senate provision allowing States to exempt up to 20 percent of hardship cases that reach the five-year time limit.
- Transitional Medicaid. We are pleased that the Finance Committee has taken steps to ensure the continuation of Medicaid coverage for some of those who are transitioning from welfare to work. We are concerned, however, that States could deny this transitional Medicaid to many who would lose cash benefits for various reasons. In addition, we still have concerns with Medicaid coverage for those on cash assistance, as noted below.
- Worker Displacement. We are pleased that the bill incorporates provisions against worker displacement, including protections from partial displacement as well as avenues for displaced employees to seek redress.
- Child Nutrition. The bill now includes many provisions proposed by the Administration, and no longer includes H.R. 4's provisions for a child nutrition block-grant demonstration. In addition, the bill exempts the child nutrition program from burdensome administrative provisions related to its alien provisions. We believe that the Senate could further improve the bill by including the Administration's proposed 8 percent commodity floor.
- Child Protection. We commend the Finance Committee for preserving the Title IV-E foster care and adoption assistance programs (including related Medicaid coverage), and other family support and child abuse prevention efforts.
- Supplemental Security Income (SSI). The bill removes the proposed two-tiered benefit system for disabled children receiving SSI, and retains full cash benefits for all eligible children.

We remain pleased that Congress has decided to include central elements of the President's approach -- time limits, work requirements, the toughest possible child support enforcement, and the requirement that minor mothers live at home as a condition of assistance -- in this legislation.

Key Concerns With S. 1956

The Administration, however, remains deeply concerned that S. 1956 still lacks other important provisions that have earned bipartisan endorsement.

- Size of the cuts. The welfare provisions incorporate most of the cuts in the vetoed bill -- about \$60 billion over six years (including the EITC and related savings in Medicaid). These cuts far exceed those proposed by the NGA or the Administration.

Cuts in Food Stamps and benefits to legal immigrants are particularly deep. The President's Budget demonstrates that cuts of this size are not necessary to achieve real welfare reform, nor are they needed to balance the budget.

- Food Stamps. The Administration strongly opposes the inclusion of a Food Stamp block grant option, which could seriously undermine the Federal nature of the program, jeopardizing the nutrition and health of millions of children, working families, and the elderly, and eliminating the program's ability to respond to economic changes. The Administration also is concerned that the bill makes deep cuts in the Food Stamp program, including a cut in benefits to households with high shelter costs that disproportionately affects families with children, and a four-month time limit on childless adults who are willing to work but are not offered a work slot.
- Legal Immigrants. The bill retains the excessively harsh and uncompromising immigration provisions of last year's vetoed bill. While we support the strengthening of requirements on the sponsors of legal immigrants applying for SSI, Food Stamps, and Aid to Families with Dependent Children (AFDC), the bill bans SSI and Food Stamps for virtually all legal immigrants, and imposes a five-year ban on most other Federal programs, including non-emergency Medicaid, for new legal immigrants. These bans would even cover legal immigrants who become disabled after entering the country, families with children, and current recipients. The bill would deny benefits to 300,000 immigrant children and would affect many more children whose parents are denied assistance. The proposal unfairly shifts costs to States with high numbers of legal immigrants. In addition, the bill requires most Federal, State, and local benefits programs to verify recipients' citizenship or alien status. These mandates would create extremely difficult and costly administrative burdens for State, local, and non-profit service providers, as well as barriers to participation for citizens. Also, the Administration urges the Senate not to go in the harsh direction that the House Rules Committee did yesterday in reporting a provision that would broaden the ban on current immigrants from receiving Medicaid coverage.
- Medical Assistance Guarantee. The Administration opposes provisions that do not guarantee continued Medicaid eligibility when States change AFDC rules. We are concerned that families who lose cash assistance for various reasons, such as reaching the five-year limit or having additional children while they are receiving assistance, could lose their Medicaid eligibility and be unable to receive the health care services that they need. In addition, State flexibility to change these AFDC rules could adversely affect Medicaid eligibility determinations, including eligibility for poverty-related pregnant women and children.
- Protection in Economic Downturn. Although the Contingency Fund is twice what it was in the vetoed bill, it still does not allow for further expansions during poor economic conditions and periods of increased need. We are also concerned about

provisions that reduce the match rate on contingency funds for States that access the fund for periods of under a year.

- Resources for Work. S. 1956 would not provide the resources States need to move recipients into work. The bill increases the work mandates on States above the levels in H.R. 4 while providing no additional resources for States to meet these more stringent rates. Based on CBO estimates, the Senate bill would provide \$12 billion less over six years than is required to meet the bill's work requirements and maintain the current level of cash assistance to poor families. CBO notes that "most States would be unlikely to satisfy this requirement." Moreover, the Senate bill would lead to a \$2.4 billion shortfall in child care resources (assuming States maintain their current level of cash assistance benefits, continue current law Transitional and At-Risk child care levels, and do not transfer amounts from the cash block grant to child care).
- Vouchers. The bill actually reduces State flexibility by prohibiting States from using block grant funds to provide vouchers to children whose parents reach the time limit. H.R. 4 contained no such prohibition, and the NGA opposes it. We strongly urge the adoption of voucher language, similar to that in the Administration's bill and Breaux-Chafee, that protects children.
- Child Care Health and Safety Protections. The bill repeals current child care health and safety protections and cuts set-aside funds to the States to improve the safety and quality of care. We strongly urge the Senate to restore these basic health and safety protections, which were enacted with strong bipartisan support in 1990 and maintained in last year's Senate bill and are essential to the safety and well-being of millions of young children.
- Family Caps. The Senate bill reverts back to the opt-out provision on family caps which would restrict State flexibility in this area. The Administration, as well as the NGA, seeks complete State flexibility to set family cap policy.
- EITC. The Administration opposes the provision in S. 1956 that raises taxes on over four million low-income adult workers by ending inflation adjustments for working households without dependent children, and thereby substantially cutting the real value of their tax credit over time. Raising taxes on these workers is wrong. In addition, the budget resolution instructs the revenue committees to cut up to \$18.5 billion more from the EITC. Thus, EITC cuts could total over \$20 billion. Such large tax increases on working families are particularly ill-conceived when considered in the context of real welfare reform -- that is, encouraging work and making work pay.

We strongly support the bipartisan welfare reform initiatives of moderate Republicans and Democrats in both the House and Senate. The Breaux-Chafee proposal addresses many of our concerns, and it would strengthen State accountability efforts; welfare to work.

measures, and protections for children. It provides a foundation on which the Senate should build in order to provide more State flexibility; incentives for AFDC recipients to move from welfare to work; more parental responsibility; and protections for children. It is a good, strong proposal that would end welfare as we know it. Breaux-Chafee provides the much needed opportunity for a real bipartisan compromise, and it should be the basis for a quick agreement between the parties.

The President stands ready to work with Congress to address the outstanding concerns so we can enact a strong, bipartisan welfare reform bill to replace the current system with one that demands responsibility, strengthens families, protects children, and gives States broad flexibility and the needed resources to get the job done.

Sincerely,

A handwritten signature in black ink, appearing to read "Jacob J. Lew". The signature is fluid and cursive, with a large initial "J" and "L".

Jacob J. Lew
Acting Director

IDENTICAL COPY SENT TO THE HONORABLE J. JAMES EXON

Improvements Made to Underlying Bill Compared to House

House Bill

Kasich amdt restricting food stamp receipt to 3 months in a lifetime for single individuals between 18-50

No Personal Contract

No corrective action plan for states with increase in child poverty

No specific provision for women subject to domestic violence

Allows option to block grant food stamps

Same (amendments adopted in the House Opportunities Committee)

Adopted Castle/Tanner provision to guarantee Medicaid to all categories of people now eligible for coverage

No provision

Senate Bill

Conrad amdt that allows receipt of food stamps for 6 months of every year for single individuals 18-50

Harkin amdt requires Personal Contract

Kerry corrective action plan required for states with an increase in child poverty

Wellstone amdt requiring procedures for states to address women who have been subject to domestic violence

Conrad amdt eliminating food stamp block grant option

Dodd/Mikulski amdts to retain current child care health & safety standards and increase the quality set-aside for child care

Chafee/Breaux Medicaid amdt achieves same result as strengthened House provision

Daschle/Dorgan amdts to retain child care setaside at 3% for Indians and exempt tribal reservations from the time limit in areas with high unemployment

SPECIAL

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO: Ken Apfel	Take necessary action	<input type="checkbox"/>
Nancy-Ann Min	Approval signature	<input type="checkbox"/>
Robert Damus	Comment	<input type="checkbox"/>
Bruce Reed	Prepare reply	<input type="checkbox"/>
Elena Kagan	Discuss with me	<input type="checkbox"/>
Chuck Konigsberg	For your information	<input checked="" type="checkbox"/>
Lisa Kountoupes	See remarks below	<input type="checkbox"/>

FROM: Melinda Haskins (5-3923) DATE: 7/18/96

REMARKS

FYI: Department of Justice (DOJ) Letter on Welfare Reform (H.R. 3507)

Attached is an FYI copy of the DOJ letter on H.R. 3507. Per Ken Apfel's instructions, we do not plan to clear this letter at this time. We have notified DOJ to this effect.

- cc: Alice Shuffield
- Barry White
- Keith Fontenot
- Barry Clendenin
- Mark Miller
- Bob Rideout
- Jeff Farkas
- Bonnie Washington
- Jim Murr
- Janet Forsgren
- Bob Pellicci

NOT BEING SENT

cc Steve Wameth
→ Elena Kagan

+ return



U. S. Department of Justice

Office of Legislative Affairs

DRAFT

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Richard A. Gephardt
 Minority Leader
 U.S. House of Representatives
 Washington, D.C. 20515

Dear Mr. Leader:

This presents the views of the Department of Justice on H.R. 3507, the "Personal Responsibility and Work Opportunity Act of 1996." The bill raises questions regarding welfare and health policy. We defer to the Secretary of Health and Human Services in that area and address below a number of constitutional and other legal issues.

-- Constitutional Concerns

Durational Residency Requirements

Section 103 of the bill amends Part A of title IV of the Social Security Act (42 U.S.C. § 601 et seq.) to create a new section 404(c), which would permit states to impose durational residency requirements for the receipt of welfare benefits. Specifically, § 404(c) would allow a state to provide families that have lived in the state for less than 12 months with the level of benefits, if any, that the families would have received in their prior states of residence. Similarly, section 2003 of the bill creates a new Title XV of the Social Security Act, which would allow states to impose durational residency requirements in their Medicaid programs: new § 1502(b)(4) permits a state to limit the duration and scope of Medicaid benefits for residents who have lived in the state less than 180 days to those benefits the residents would have received in their states of prior residence. See also new section 402(a)(1)(B)(1) (requiring state plans to indicate whether the state intends to treat new state residents differently from other state residents, and if so, how).

The Supreme Court has held that a state impermissibly burdens the right to interstate travel when it denies newcomers the "same right to vital government benefits and privileges . . . as are enjoyed by other residents." Memorial Hosp. v. Maricopa County, 415 U.S. 250, 261 (1974) (one-year residency requirement for free nonemergency medical care invalid as penalty on right to interstate travel); see also Shapiro v. Thompson, 394 U.S. 618 (1969) (invalidating one-year residency requirement for welfare

benefits). This is true even where the state acts, as it would here, pursuant to congressional authorization. See Shapiro, 394 U.S. at 641. In a related line of cases, the Supreme Court has used a different rationale to come to the same conclusion, holding that distinctions based on length of residence violate the Equal Protection Clause under rational basis review. See, e.g., Zobel v. Williams, 457 U.S. 55 (1982) (state lacks rational and permissible interest in granting incrementally higher oil revenue dividend payments to residents of longer duration).¹

Recent lower court cases have invalidated laws that, like those contemplated by the bill, limit new residents to the level of benefits they received in their prior states. See Mitchell v. Steffen, 504 N.W.2d 198 (Minn. 1993), cert. denied, 114 S. Ct. 902 (1994); Aumick v. Bana, 612 N.Y.S.2d 766 (1994); Green v. Anderson, 811 F. Supp. 516 (E.D. Cal. 1993), aff'd, 26 F.3d 95 (9th Cir. 1994), vacated on procedural grounds, 115 S. Ct. 1059 (1995). But see Jones v. Milwaukee County, 485 N.W.2d 21 (Wis. 1992). The argument that such laws might be described as "neutral" with respect to travel, insofar as they provide equivalent benefits to those available in the state of prior residence, was rejected by those courts. Mitchell, 504 N.W.2d at 201-202; Aumick, 612 N.Y.S.2d at 772-73; Green, 811 F. Supp. at 521. As noted in Green, 811 F. Supp. 521, because the cost of living differs between states, such laws might not always provide new residents with benefits equal to those previously received in any meaningful sense. More fundamentally, however, two-tiered benefits systems disadvantage new state residents relative to older state residents:

[U]nder the cases the relevant comparison is not between recent residents of the State of California and residents of other states. . . . It is because the measure treats recent residents of California different than other California residents, and involves the basic necessities of life, that it places a penalty on migration.

¹ The majority opinion in Zobel asserted that the right to travel was grounded in the Equal Protection Clause: "In reality, right to travel analysis refers to little more than a particular application of equal protection analysis. Right to travel cases have examined, in equal protection terms, state distinctions between newcomers and longer term residents." 457 U.S. at 60 n.6. In her concurring opinion, Justice O'Connor argued that the right predated the Constitution and was preserved by the Privileges and Immunities Clause of Article IV. Justice Brennan suggested the right might derive from the Commerce Clause or the Privileges and Immunities Clause of the Fourteenth Amendment.

Id. Under existing case law, this is the dispositive comparison, because it reveals "discriminat[ion] only against those who have recently exercised the right to travel." See Zobel, 457 U.S. at 55 n.5; see also Memorial Hospital, 415 U.S. at 261 ("right of interstate travel must be seen as insuring new residents the same right to vital government benefits and privileges in the state to which they migrate as are enjoyed by other residents").

Accordingly, under this line of authority, the durational residency requirement of H.R. 3507 can be sustained only if narrowly tailored to serve a compelling governmental interest, a burden that is extremely difficult to satisfy. See Shapiro, 394 U.S. at 627-638 (rejecting variety of budgetary and administrative interests as impermissible or non-compelling).

Denial of Food Stamp Benefits to Citizen Children of Unqualified Aliens

Section 1044 of the bill amends section 11 of the Food Stamp Act of 1977 to add a new subsection 11(e)(2)(B)(v), which would require states to ensure that all members of a household receiving food stamp assistance are either U.S. citizens or permanent resident aliens. Specifically, this provision would require anyone applying for food stamps, for herself or on behalf of a minor child, to certify that all members of the household are citizens or legal resident aliens. In practice, this provision would operate to deny the U.S.-born children of families with undocumented alien members certain food stamp benefits for which they might otherwise be eligible if their parents or siblings were not undocumented aliens.

Although Congress enjoys substantial authority to classify on the basis of alienage and, specifically, to limit the eligibility of aliens for benefits under federal programs, see Mathews v. Diaz, 426 U.S. 67 (1976), that authority ends once citizenship is attained. See Schneider v. Rusk, 377 U.S. 163, 166 (1964) (Congress' broad discretion to impose conditions precedent to entry and naturalization expires once an individual attains citizenship by naturalization: "The simple power of the national Legislature, is to prescribe a uniform rule of naturalization, and the exercise of this power exhausts it, so far as respects the individual." (citing Osborn v. Bank of United States, 22 U.S. (9 Wheat.) 738, 827 (1824))). The Constitution guarantees that every person born in the United States becomes a citizen of this country, regardless of his or her parentage. U.S. Const. amend. XIV, cl. 1; see also United States v. Wong Kim Ark, 169 U.S. 649, 693 (1898) (citizenship clause "affirms the ancient and fundamental rule of citizenship by birth within the territory"); Rogers v. Bellei, 401 U.S. 815, 829-30 (1971); 14 Op. Atty. Gen. 154, 155 (1872) ("As a general rule, a person born in this country, though of alien parents who have never been naturalized, is, under our law, deemed a citizen of the United

States by reason of the place of his birth"). This precious right of citizenship, once acquired, cannot be "shifted, canceled, or diluted at the will of the Federal Government, the States, or any other governmental unit," Afroyim v. Rusk, 387 U.S. 253, 262 (1967).

A classification such as the one in § 11(e)(2)(B)(v) effectively distinguishes among citizen children on the basis of an immutable trait -- their national ancestry. The Supreme Court made the suspect nature of such classifications clear in Oyama v. California, 332 U.S. 633 (1948), where it invalidated a state law restricting the ability of citizen children of alien parents to own land. Concluding that discrimination between citizens on the basis of their racial descent is justifiable under "only the most exceptional circumstances," 334 U.S. at 646, the Court applied a strict scrutiny standard of review to classifications based upon ancestry. See also Massachusetts Bd. of Retirement v. Murgia, 427 U.S. 307, 312 and n.4 (1976) (including ancestry as a suspect classification requiring strict scrutiny); Graham v. Richardson, 403 U.S. 365, 372 and n.5 (1971) (citing Oyama for proposition that classifications based on nationality are "inherently suspect and subject to close judicial scrutiny").

In the context of public assistance benefits, lower federal courts and state courts have applied strict scrutiny to reject legislative schemes which operate to deny benefits to the citizen children of ineligible aliens. See Fuentes v. White, 709 F. Supp. 1026, 1030 (D. Kan. 1989) (confirming that state policy of denying food stamps and medical benefits to citizen children of undocumented aliens violated the Equal Protection Clause); Intermountain Health Care, Inc. v. Board of Commissioners of Blaine County, 707 P.2d 1051, 1054 (Idaho 1985) (Donaldson, C.J., specially concurring) (same; denial of medical indigency benefits); Darces v. Woods, 679 P.2d 458 (Cal. 1984) (same; AFDC benefits); cf. Lewis v. Grinker, 965 F.2d 1206, 1217 (2d Cir. 1992) (noting that "serious equal protection questions" would be raised if federal statute were construed to deny automatic eligibility for Medicaid benefits to citizen children of illegal aliens). As the California Supreme Court pointed out in Darces, citizen children of undocumented aliens "constitute a discrete minority" and "are classified on the basis of an immutable trait -- they cannot forsake their birth into an undocumented family." 679 P.2d at 473. Citing a long line of Supreme Court cases, including Oyama, which impose strict scrutiny for classifications based upon national origin or ancestry, the California Court concluded that strict scrutiny was warranted. Id. Compare Lyng v. International Union, United Automobile, Aerospace, & Agricultural Implement Workers of America, 485 U.S. 360, 370 (provision denying food stamp benefits to households in which one member is on strike did not "affect with particularity any protected class," and was therefore reviewed, and upheld, under rational basis standard).

Because the classification here operates to discriminate against citizen, rather than alien, children and does so on the basis of the national origin of their parents, we believe that it would be subject to strict scrutiny. It is highly unlikely that the compelling interest requirement could be satisfied in this context, as no court faced with a similar classification has found any proposed state justification sufficient under this standard. See, e.g., Darces, 679 P.2d at 473-74; Puentes, 709 F. Supp. at 1030.

Indeed, even under a more lenient standard, this classification would be unlikely to survive constitutional scrutiny. As the Supreme Court explained in Weber v. Aetna Casualty & Surety Co., 406 U.S. 164 (1972), where it invalidated a state statute that discriminated against illegitimate children, penalizing a child is an impermissible means of attempting to affect the parent's conduct:

[I]mposing disabilities on the illegitimate child is contrary to the basic concept of our system that legal burdens should bear some relationship to individual responsibility or wrongdoing. Obviously, no child is responsible for his birth and penalizing the illegitimate child is an ineffectual -- as well as an unjust -- way of deterring the parent. Courts are powerless to prevent the social opprobrium suffered by these hapless children, but the Equal Protection Clause does enable us to strike down discriminatory laws relating to status of birth where -- as in this case -- the classification is justified by no legitimate state interest, compelling or otherwise.

Id. at 175-76. Cf. Plyler v. Doe, 457 U.S. 202 (1982) (invalidating state's denial of public education benefits to undocumented alien children under higher standard than ordinary rational review; Supreme Court acknowledged "special constitutional sensitivity" of case, due to the state's penalization of innocent minors and the importance of the public benefits in question). Similarly, citizen children living in homes with undocumented aliens are neither responsible for nor able to control the alien status of their parents or siblings. In light of the constitutional standards reviewed here, punishing the innocent citizen children or siblings of undocumented aliens seems an impermissible means to effectuate Congress's legitimate interest in deterring undocumented aliens from entering this country.

State Authority to Limit Eligibility of Noncitizens

Section 412 of the bill permits states to establish eligibility standards for certain categories of aliens seeking state welfare benefits. Section 422 of the bill authorizes

states to apply so-called "income deeming" rules to restrict the eligibility of otherwise qualified aliens. Under such rules, the income of an alien's "sponsor" would be attributed to the alien for purposes of determining eligibility for state benefits.

To the extent these provisions allow states to discriminate against legal aliens, they raise constitutional concerns. Although Congress enjoys broad authority to classify on the basis of alienage and to limit the eligibility of aliens for benefits under federal programs, Mathews v. Diaz, 426 U.S. 67 (1976), the states are constrained significantly by the Equal Protection Clause in their treatment of legal aliens. State denial of welfare benefits to legal aliens is subject to strict scrutiny, a standard that, as we have already noted, is exceedingly difficult to satisfy. Graham v. Richardson, 403 U.S. 365 (1971); cf. Nyquist v. Mauclet, 432 U.S. 1, 7 (1977) (state classification based upon alienage invalidated under strict scrutiny).

The question arises whether congressional authorization would be sufficient to immunize a state from such an equal protection challenge. Graham suggests that it would not: in Graham, the Supreme Court was faced with the argument that a state's durational residency requirement for aliens was in fact authorized by federal statute. The Court declined to read the statute in question "so as to authorize discriminatory treatment of aliens at the option of the States," in order to avoid the "serious constitutional questions" that would otherwise be presented:

Although the Federal Government admittedly has broad constitutional power to determine what aliens shall be admitted to the United States, the period they may remain, and the terms and conditions of their naturalization, Congress does not have the power to authorize the individual States to violate the Equal Protection Clause.

403 U.S. at 382 (citing Shapiro v. Thompson, 394 U.S. 618, 641 (1969)).

The fact that Graham involved state restrictions on alien eligibility for federal welfare benefits rather than state welfare benefits does not, we believe, alter the Equal Protection analysis applicable to such restrictions. Graham made clear that strict scrutiny should be applied to such classifications because "[a]liens as a class are a prime example of a 'discrete and insular' minority for whom such heightened judicial solicitude is appropriate." 403 U.S. at 372 (citing United States v. Carolene Products Co., 304 U.S. 144, 152-153, n.4 (1938)).

-- Concerns Related to Asset Forfeitures in the Food Stamp Program

Section 1054 of H.R. 3507 would provide for criminal asset forfeitures in connection with convictions obtained in food stamp fraud cases. We have no objection to this proposal in concept. Unfortunately, however, the bill fails to provide for civil (as opposed to criminal) forfeitures of property under 7 U.S.C. § 2024(g).

The absence of the availability of civil forfeiture for some types of property involved in food stamp violations is problematic. For example, only the defendant's property may be forfeited in a criminal forfeiture case. Property used by the defendant but held by a third party cannot be forfeited criminally. In addition, the absence of civil forfeiture will make it impossible to use forfeitures in cases in which the offender has become a fugitive. That is because criminal forfeiture operates only upon the conviction of the defendant. Moreover, there are times when the criminal prosecution of an offender is not necessary to vindicate the government's interest, as long as the proceeds of and/or the property used in the violation can be forfeited civilly.

Questions of civil forfeiture aside, the statutory scheme envisioned by section 1054 of H.R. 3507 is, as currently drafted, fundamentally flawed. If enacted in its current form, it would without question generate much unnecessary litigation and would, for the reasons set forth below, ultimately prove unworkable.

First, the provision lacks basic procedures necessary for implementing criminal forfeitures. That is, it provides woefully insufficient guidance to the courts and the Executive Branch regarding how criminal forfeitures under the Food Stamp Act are to be conducted. We strongly recommend that section 1054 incorporate the criminal forfeiture procedures from 21 U.S.C. § 853 (criminal forfeitures for drug violations).

Second, the provision incorporates the "innocent owner" defense presently applicable to civil forfeitures (e.g., 21 U.S.C. §§ 881(a)(6) and (7)) in a criminal forfeiture statute. This poses the same problems that the Department's proposed uniform innocent owner provision is designed to correct. See, e.g., United States v. One 1973 Rolls Royce, 43 F.3d 794 (3d Cir. 1994) (holding that present innocent owner defense in section 881 precludes forfeiture from any person who acquired the property after the offense giving rise to the forfeiture action). If the provisions of 21 U.S.C. § 853 are incorporated in section 1054, as we recommended above, 21 U.S.C. § 853(n)(6) would apply standards that are appropriate for non-defendant third party claimants in criminal forfeiture proceedings.

Third, the provision contains unusual -- and objectionable -- features that place amounts realized from food stamp forfeitures at the disposal of the Secretary of Agriculture. Such provisions are unprecedented and conflict directly with 28 U.S.C. § 524(c) (Department of Justice Assets Forfeiture Fund), which places such amounts at the discretionary disposal of the Attorney General for various forfeiture and law enforcement-related purposes. See 28 U.S.C. §§ 524(c) (1), (4) (A) and (12) (A). We strongly oppose this proposal. Among other things, it is likely to encourage a "bounty hunter" approach to forfeiture activities, since the agency responsible for a forfeiture would stand to benefit directly from it. We consider this highly inadvisable.

Section 377 of the Administration's "Work First and Personal Responsibility Act of 1996" would provide for both civil and criminal asset forfeitures in the Food Stamp program and does not contain any of the deficiencies discussed above. We strongly urge adoption of the Administration's proposal, a copy of which is enclosed for ready reference.

-- Child Support Enforcement

As the agency charged with giving effect to the provisions of the Child Support Recovery Act of 1992, which make it a federal crime to fail to make child support payments to a child in another state, the Department of Justice has a direct interest in legislation designed to enhance the tools available to states to enforce child support orders. We are pleased that H.R. 3507 includes all of the major child support enforcement improvements that the President has proposed.

We are particularly supportive of provisions that would: provide for the streamlining of state procedures for establishing paternity and child support orders, and for the modification of existing support orders; permit local agencies to access more databases, enhancing their ability to locate absent parents and track their employment²; centralize casetracking (e.g., through

²In order to ensure that sensitive federally-held information compiled strictly for criminal law enforcement purposes (e.g., information included in data bases within the National Crime Information Center) is not needlessly compromised, we recommend that section 315 of the bill be amended in such a way (or that the legislative history make clear) that access by a non-criminal justice agency to any federal system of records established and maintained by a criminal justice agency for the purpose of the administration of criminal justice is not permitted.

expansion of the Federal Parent Locator Service (FPLS)³; improve the provisions of current law mandating "full faith and credit" for child support orders issued in other states; provide guidance to state courts on priority and recognition of child support orders where more than one order has been issued; and require that states enact statutes providing for the suspension of drivers, professional, occupational and recreational licenses.

While we strongly support the child support enforcement provisions of H.R. 3507, we would like to bring to your attention problems that we have identified in connection with our ongoing litigation responsibilities under current law in this area.

Our concerns are threefold. Of paramount importance is the need to correct the decisions of several courts that render the Treasury vulnerable to becoming a "deep pocket" for frustrated support seekers. H.R. 3507, like the current statute, would render money due from the United States subject to garnishment "in like manner and to the same extent as if the United States . . . were a private person." See, section 362(a) ("authority to collect support from federal employees") (proposed 42 U.S.C. § 459). A problem with this language has arisen where the employing agency fails properly to honor the garnishment order and pays wages directly to the employee, instead of withholding such wages and surrendering them to the court. In similar circumstances involving private employers, many states permit plaintiffs to sue the negligent employer for punitive, as well as compensatory damages. We have taken the position in court that a federal agency cannot be sued under such circumstances at all. Most of the courts that have addressed the issue have taken a middle road position by holding, based upon the "private person" clause (included in current law, as well as proposed section 459), that federal agencies can be sued for compensatory damages but not fines and penalties. See Loftin v. Rush, 767 F.2d 800, 806-10 (11th Cir. 1985); DeTienne v. DeTienne, 815 F. Supp. 394, 397-98 (D. Kan. 1993); Young v. Young, 547 F. Supp. 1, 3-5 (W.D. Tenn. 1980); but cf. Green v. Green, 106 Wash. L. Rep. 1201, 1206 (Sup. Ct. D.C. 1978) ("Congress has not intended the general

³We believe that quarterly reporting of all new hires to the FPLS (to help establish a new National Directory of New Hires), as proposed in section 316 of the bill, may not be appropriate for all federal agencies, particularly agencies whose personnel files contain especially sensitive or classified information, such as the Federal Bureau of Investigation. There are, in our view, less intrusive ways to provide the information sought by the bill, and we therefore recommend that it be made clear that the Secretary of Health and Human Services and the head of a law enforcement agency may agree to permit the agency to submit information to the FPLS in a form and according to a timetable that is mutually agreeable.

funds of the Treasury to be used for child support and alimony purposes.").

Garnishment statutes and procedures are complex and vary from state-to-state. Moreover, the federal government employs individuals located in every state. It is, therefore, foreseeable that agencies will occasionally make mistakes in attempting to comply with garnishment orders.⁴ Holding the agencies liable for compensatory, or even punitive, damages for those mistakes, however, would impose an unfair burden upon the taxpayers and would force the taxpayers to pay for the obligations of delinquent parents. In most cases, where the employee subject to garnishment continues to work for the agency, no harm would result from the agency's initial failure to comply with a garnishment order; the garnishment would simply continue longer. In addition, where a federal agency fails to garnish, the garnisher may still reach those payments by pursuing the delinquent parent directly. Therefore, imposing compensatory or punitive damages upon the government would substantially burden the taxpayers while providing no concomitant substantial benefit to the garnisher. To clarify that money from the Treasury is not available to pay compensatory damage awards, we recommend that any future child support enforcement legislation include the following provision:

SEC. ____ AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

* * *

LIABILITY OF THE UNITED STATES. -- Notwithstanding any other provision of law, the United States shall not be liable for failure to comply with legal process.

Our second concern is the risk of confusion presented by the definition of money "subject to process" to include "moneys paid or payable." See proposed 42 U.S.C. § 459(h). If money has already been paid, then it is no longer in the possession of the

⁴ A recent case in the District of Columbia, while addressing commercial garnishment, rather than garnishment for child support, illustrates the difficulties. In First Virginia Bank v. Randolph, No. 95-0919 (PLF) (D.D.C. Mar. 29, 1996), the State Department received a garnishment order and began to withhold payments. Shortly thereafter, the Department received a notice that its employee had filed a motion to quash the garnishment. The Department employees responsible for processing the garnishment order interpreted an ambiguous District of Columbia statute to require that garnishment cease pending a ruling on the motion to quash. The district court held that this was an incorrect interpretation of the statute at issue and held the Department liable for compensatory damages.

United States and cannot be withheld in response to legal process. In addition, rendering the United States responsible to surrender "moneys paid" contradicts proposed 42 U.S.C. § 459(a), which applies only to moneys "due from, or payable by, the United States" to the employee. To correct this apparent inconsistency, we suggest that the words "paid or" be deleted from proposed § 459(h).

Our third concern is the provision in both the current statute and in H.R. 3507 that requires the government to "respond" to legal process within 30 days. See proposed § 459(c). Some litigants have taken the position that "respond" means "pay into court." In recognition of the fact that agency payrolls are cumbersome and that withholding calculations and exemptions are confusing, we have taken the position that a more reasonable interpretation of "respond" would be "begin to withhold." Because 30 days is a reasonable amount of time in which to expect the employing agency to put the garnishment order into effect through the automated payroll process, if proper identifying information is received, we suggest that Congress strike the word "respond" in proposed § 459(c)(2)(C) and insert "begin the procedures necessary to implement the garnishment, if proper identifying information is included in the garnishment order, including, at a minimum, the employee's Social Security number and duty station."

-- Cuban and Haitian Entrants' Access to Benefits

We urge the Congress to clarify that Cuban and Haitian entrants, including parolees, are eligible for means-tested benefits under the same terms and conditions as provided to refugees and asylees under H.R. 3507. In particular, Congress should clarify that Cuban and Haitian entrants are eligible for the same waivers from benefit restrictions as refugees and asylees. We also urge the retention of the law that authorizes Cuban and Haitian entrants' access to refugee assistance benefits.

Under the terms of the September 9, 1994, agreement between the United States and Cuba which has succeeded in encouraging safe, orderly and legal migration, the United States has made a commitment to facilitate the legal migration of at least 20,000 Cubans each year. A May 3, 1995, agreement provides for parole consideration for Cuban migrants at Guantanamo.

Cuban and Haitian entrants, like refugees, do not necessarily have close family ties or employment offers in the United States, and therefore, may lack the support systems available to other immigrants. While good faith efforts are being made to screen out potential Cuban and Haitian entrants who are likely to become public charges and to encourage the early self-sufficiency of these entrants upon arrival in the United

States, some may still need the safety net of benefits for the first five years after entry. Requiring fully enforceable affidavits of support for all Cuban lottery beneficiaries in Havana would be contrary to the purpose for which the lottery program was designed (i.e., to provide migration opportunities to persons who may not have family ties to the United States). The elimination of benefits for Cuban and Haitian entrants might result in our inability to fulfill our migration commitment which could trigger an uncontrolled outflow of illegal migration from Cuba.

The five-year waiver from the bar on benefits and the continuation of refugee benefits -- cash and medical assistance for the critical first 8 months -- would lessen the impact on state and local communities across the Nation by helping to ensure self-sufficiency and reducing the potential for long-term dependency on public assistance.

Finally, clarification is also needed to continue specific benefits for certain groups of foreign nationals who under the current legislative language would be restricted from coverage in direct contravention of treaties to which the United States is signatory. We defer to the Department of State with respect to further details on how the legislation should be clarified.

-- Medicaid Concern

Although we understand from press reports that the Medicaid provisions of this legislation are to be dropped (and possibly considered separately), we would like to bring a potential problem to your attention. In particular, section 2003 of the bill (adding new section 1557(b)(3)(B)(ii) of the Social Security Act) would provide certain remedies to address situations in which nursing facilities receive federal monies under State plans and "willfully and knowingly" submit a false certification regarding nursing facility residents' functional capacity assessments. Requiring that such certifications be made "willfully" makes the "intent" standard that the government must demonstrate so restrictive that it will be virtually impossible to obtain civil penalties under this section. In Ratzlat v. United States, 114 S. Ct. 655 (1994), the Supreme Court held that when Congress uses the term "willful" in a statute, it means that the government must show that the defendant had "specific intent" (i.e., both knowledge of the law that makes his conduct illegal and knowledge that his conduct violated the law). Proving that a defendant had knowledge of the law in the face of his contrary testimony is an extremely difficult endeavor. The proper intent standard is the "knowingly" requirement set forth in section 1575(b)(3)(C)(ii) of the Social Security Act, in connection with civil penalties for manufacturers who submit false price information under master drug rebate agreements.

Thank you for the opportunity to comment on this legislation. If we may be of additional assistance in connection with this or any other matter, please do not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

Andrew Fois
Assistant Attorney General

Enclosure

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7/18/96
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WELFARE REFORM CONFERENCE PRIORITIES

Senate Provisions to Retain

② **Medicaid:** Retain bipartisan Senate language ensuring that poor women and children retain health care coverage under Medicaid. (keep Chafee-Breaux Medicaid Amendment)

Welfare reform is about moving parents from dependency to work and self-sufficiency, not reducing health care coverage for needy families. The Senate provision maintains Medicaid for over 1 million children and 4 million women.

① **Food Stamp Block Grant:** Retain a federal safety net for food and nutrition by eliminating the optional food stamp block grant. (keep Conrad-Jeffords Amendment)

We should ensure that poor children, needy families, and dependent seniors have food stamps to meet their basic nutritional needs, even during tough economic times.

B list **Maintenance of Effort and Transferability:** Maintain Senate provision to ensure that States continue to spend at least 80% of current funding for welfare families, and allow States to transfer up to 30% of federal block grant funding to child care only.

Under the new block grant, States get tremendous flexibility, but we must be fiscally responsible and ensure that States continue to invest their own funding in helping move families from welfare to work.

— **Fair and Equitable Treatment:** Keep Senate language within the block grants on fair and equitable treatment on eligibility for aid, including federal standards for fair hearings, appeals, and safeguards against fraud and abuse.

We should maintain federal protections to prohibit discrimination.

B list **Child Protection:** Retain Senate provision eliminating child protection block grant.
(keep Rockefeller-Chafee amendment)

Children, especially those at risk of abuse and neglect, deserve protection. Over 20 states are under court order for inadequately protecting children, so this is the wrong issue for a block grant.

Children's Package of Improvements Missing from House and Senate Bills

Welfare reform should put work first without putting children last. These changes will provide further assurances that children's basic needs will be met during welfare reform.

Food Stamp Cut: Reduce level of food stamp cut.

Vouchers: Require/allow vouchers for children after the time limit.

Legal Immigrants: Exempt children and the disabled from the food stamp, SSI and Medicaid bans for legal immigrants.

Shelter Deduction/Food Stamps: Calculate food stamp benefit levels for families with children in the same manner as the elderly -- uncap the excess shelter deduction.

House Provisions to Modify

1) Repeal retroactive Medicaid cuts on legal immigrants who currently depend on Medicaid for basic health care coverage.

2) Strike the Kasich amendment, which imposes a lifetime limit of 3 months of food stamps for unemployed adults, between the ages of 18 and 50, without children.

Congressional Positions on Welfare Reform			
	Vetoed H.R. 4	Senate Bill	House Bill
AFDC, WORK, & CHILD CARE			
State Funding/Maintenance of Effort (MOE) Issues			
<u>Overall MOE</u> -- Raise level to 80% or higher	-	+	+
<u>Transferability</u> -- Allow transfers to child care only; prohibit transfers to Title XX Social Services Block Grant	-	+	0
Contingency Fund			
<u>Base Fund</u> -- Increase to \$2 billion and make permanent	-	+	+
<u>Recessions</u> -- Allow further expansion of fund during recessions	-	-	-
Work Program Issues			
<u>Work Participation</u> -- Tough but flexible work requirements	-	0	0
<u>Performance Bonus</u> -- Incentives for work	-	+	+
<u>Child Care</u> -- Added resources and quality standards	-	+	+
<u>Equal Protections</u> -- Require States to establish fair and equitable treatment provisions and develop State accountability mechanisms	-	+	-
<u>Vouchers</u> -- Five year time limit with mandatory vouchers	0	X	X
<u>Medicaid</u> -- Health coverage for welfare families	-	+	+
<u>Family Cap</u> -- Provide complete State flexibility	-	+	-
<u>Displacement</u> -- Workfare not displacing jobs	-	0	-
FOOD STAMPS & CHILD NUTRITION			
<u>Optional Block Grant</u> -- Drop any version from bill	-	+	-
<u>Annual Cap on Program Spending</u> -- Drop from bill	-	+	+
<u>Shelter Deduction</u> -- Do not change current law	-	0	-
<u>Time Limits/Work Requirements on 18-50s</u> -- States must offer work slot before terminating benefits	-	0	X
<u>Block Grant</u> -- Drop the School Lunch demonstration block grant	-	+	+

(+) indicates position generally consistent with Administration; (-) indicates position inconsistent with Administration; (0) indicates partial support; (X) indicates position worse than vetoed bill. July 24, 1996

	Vetoed H.R. 4	Senate Bill	House Bill
LEGAL IMMIGRANTS			
Bans -- Drop Food Stamps and SSI bans	-	-	-
Medicaid			
<u>Ban on Future Immigrants</u> -- Drop from bill	-	-	-
<u>Ban on Current Immigrants</u> -- Drop from bill	+	+	X
Exemptions -- Provide an exemption for the disabled and children	-	-	-
CHILD SUPPORT ENFORCEMENT			
Reforms -- Toughens Child Support Enforcement	+	+	+
SUPPLEMENTAL SECURITY INCOME			
Children -- Drop 25% benefit reduction for most newly eligible	-	+	+
CHILD PROTECTION			
Block Grant -- Drop foster care/adoption assistance block grant	-	+	+

(+) indicates position generally consistent with Administration; (-) indicates position inconsistent with Administration; (0) indicates partial support; (X) indicates position worse than vetoed bill. July 24, 1996

Savings From Welfare Reform Proposals*				
	Vetoed H.R. 4	House Bill	Senate Bill	Administration Bill
Food Stamps	-\$25	-\$27	-\$24	-\$18 21
Immigrants	-\$22	-\$29	-\$23	-\$6
SSI Kids	-\$10	-\$7	-\$7	-\$7
Other	-\$2	+\$2	\$0	-\$6
EITC	\$0	-\$2	-\$5	-\$5
Adoption Credit	\$0	\$0	+\$2	\$0
Total	-\$59	-\$63	-\$58	-\$42

*6-year savings in billions; CBO estimates; includes Medicaid effects of a stand-alone welfare bill; totals may not add due to rounding

Democrats, lobbyists, some Republicans targeting Shaw's welfare bill By William E. Gibson Fort Lauderdale Sun-Sentinel

WASHINGTON: Democrats and lobbyists are preparing an ambush for Rep. E. Clay Shaw Jr.'s controversial welfare bill as it rumbles toward the House floor.

The fray over welfare, with Shaw caught in the middle, has only just begun.

Opponents plan to take shots at the bill's proposed ban on benefits to unmarried teen-age mothers, its limits on aid to disabled children and its cap on welfare spending regardless of need.

"We ought to be thinking about how we can help the least among us, not how harsh we can be on children born out of wedlock and folks who need education, training and a job," said Rep. Charles Rangel, D-N.Y., a senior member of the Ways and Means Committee.

Florida Gov. Lawton Chiles has already entered the welfare debate, last week urging Shaw, R-Fla., to change funding formulas so that growth states like Florida do not suffer more than its fair share of welfare cutbacks.

The action centers on a bill to overhaul the welfare system, which emerged last week from chairman Shaw's Subcommittee on Human Resources. After angry debate, all eight Republicans on the panel voted for the bill, and all five Democrats voted against it.

The bill next goes to the full Ways and Means Committee, probably in early March, where Democrats hope to force major changes.

Though both parties favor welfare reform, Republicans probably will have to compromise to get their version into law. The bill still must pass the full committee, the House and the Senate and be signed into law by President Clinton—a harrowing process sure to wear away some sharper edges.

On this and many other issues, Democrats are learning how to counter-punch, and Republicans are learning how difficult it is to bring about change.

Shaw, already the target of lobbyists from all sides, will manage the bill as it churns through Congress.

"We've got a system so out of whack it's been cruel to people," said Shaw. "It's encouraged out-of-wedlock births. It's encouraged people not to do well in school. It's encouraged people not to work."

But Shaw acknowledged that to get his bill through Congress, "there will be some changes."

As it now stands, the bill would:

Cut off benefits to unmarried mothers under age 18.

Cut off benefits to parents who are not working after two years on welfare.

Cut off benefits to families who have been on welfare for more than five years.

Cut off benefits to legal aliens—those who reside here legally but have not become citizens—including food stamps and Medicaid. Illegal aliens are already barred.

Cut off Supplemental Security Income benefits to alcoholics and drug addicts.

Tighten rules that determine which children are eligible for disability aid.

Create a welfare block grant to cap total spending, even if that leaves the states short of funds to help individuals who qualify.

Total welfare spending would be capped at \$15.3 billion per year through 2000—an estimated savings of \$7 billion over five years.

(EDITORS: NEXT 2 GRAFS OPTIONAL TRIM)

Shaw himself hopes to make some changes when the bill reaches the full committee.

He plans to add tough new enforcement tools to extract money from deadbeat dads. That would include a national registry of parents who owe child-support payments—a

computerized listing of their names and Social Security numbers so money can be deducted from their paychecks wherever they go. About \$34 billion in child support goes uncollected each year, he said.

(END OPTIONAL TRIM)

Shaw also promised Chiles he would devise a funding formula that does not punish growth states. The governor has complained that a nationwide cap as now proposed would be especially severe in Florida because it would not allow for the state's huge growth in population and needs.

(EDITORS: NEXT 2 GRAFS OPTIONAL TRIM)

"In fact, in all of the formulas that deal now with AFDC, Medicaid

you name it—we are going to be hurt," Chiles told the Florida congressional delegation last week.

The state's federal welfare funding would be cut 61 percent, far greater than the nationwide cutback of 25 percent, said Rep. Karen Thurman, D-Fla. "Those states who would be the big losers are starting to come forward and say, 'Well, wait a minute,'" she said.

(END OPTIONAL TRIM)

While trying to resolve this concern, Shaw also will be pressed by Democrats, Republican moderates and advocacy groups who think some of the proposed cutbacks are too harsh, especially those affecting disabled children, teen-age mothers and legal non-citizens.

Some of Shaw's fellow Republicans are preparing to pounce. For example, Cuban-American Reps. Lincoln Diaz-Balart and Ileana Ros-Lehtinen, both of Miami, are pressing within Republican ranks to eliminate the proposed cutoff of non-citizens, many thousands of whom live in South Florida.

(EDITORS: STORY CAN TRIM HERE)

Another flashpoint is the bill's restrictions on benefits to the disabled.

"Congressman Shaw just voted to throw 200,000 disabled children directly into the grinding maw of poverty," said Rhoda Schulzinger, staff attorney for an advocacy group, the Bazelon Center for Mental Health Law.

Shaw shrugs off such criticism, saying he only wants to tighten rules that allow too many people who are not really needy to squander the taxpayers' money.

"All this will come under discussion, but in the end we will be able to get a bill through Congress," he predicted.

Moreover, AID contributes funds to Russia-related programs of the World Bank, the European Bank for Reconstruction and Development, the United Nations Development Program, the World Health Organization and other public bodies. These organizations enjoy vast resources and are capable of conducting their own activities in the former Soviet Union.

The AID contracting process is arcane and often understood only by those with long-term relationships with the agency. This effectively screens out organizations that don't have an inside track with AID. Tom Dine, AID's assistant coordinator for the Newly Independent States, has said publicly that if he could have one wish fulfilled it would be to abolish AID's contracting office.

To achieve American foreign-policy goals, U.S. aid to Russia must be delivered quickly and efficiently. Experience teaches us this goal will not be achieved if the program is administered by AID. Sen. Jesse Helms' recent proposal to create an independent International Development Corporation is a step in the right direction. But the best results will be achieved if Congress creates an independent board to manage aid to Russia and the Newly Independent States.

Such a board would be jointly nominated by Congress and the president and would include representatives of government, prominent area specialists and the private sector. It could be modeled on the Board of International Broadcasting, which ran one of the government's more efficient foreign operations, Radio Liberty and Radio Free Europe.

Congress should continue to support Russia's economic and political reforms. While aid programs are far from perfect, they address vital U.S. security goals. At the same time, Congress should find ways to improve program design, efficiency and delivery. These programs are as vital as their post-World War II predecessors in Germany and Japan, and should be run as efficiently.

Ariel Cohen is Henry Salvatori Fellow in Russian and Eurasian Studies at the Heritage Foundation in Washington.
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Welfare Reform *Stalled in the Senate Once Again*

Lyn A. Hogan

The welfare reform debate, temporarily stalled in the Senate, offers the country two clear choices: passing the buck or putting people to work.

As the Senate set aside the debate Aug. 8, there were two leading proposals, one Republican, one Democratic. The Republican block grant proposal crafted by Sen. Bob Dole (R-KS), offers states flexibility but abandons real work-based welfare reform for budget cutting. The "Work First" proposal advanced by Senate Democrats Tom Daschle (D-SD), John Breaux (D-LA), and Barbara Mikulski (D-MD) provides states with a radical but responsible plan that will move welfare recipients into private sector work.

The proposal crafted by Sen. Phil Gramm (R-TX)—now broken into a series of amendments primarily addressing out-of-wedlock births and sanctions for nonwork—could not have passed but has splintered Republican unity on welfare reform, making bipartisan compromise more probable. Another second proposal, offered by Sen. Daniel Patrick Moynihan (D-NY), is a defense of the status quo and has gained little support.

GOP congressional leaders, originally poised to act on real work-based welfare reform with Democrats in the last Congress, shifted to a block grant approach this year *not to encourage work*, but to generate short-term budget savings, satisfy GOP governors' demands for flexibility, and avoid making tough decisions.

Democrats, on the other hand, are coalescing around the most radical proposal ever offered by their party. They have bucked the status quo in favor of a new welfare-to-work system that will begin to *truly* move recipients off the rolls and into work—the real test of reform.

Sens. Dole and Packwood claim their bill will strengthen family, reduce the welfare rolls through work, and save money doing so, but in reality, none of these goals will be accomplished. Let's take a closer look at its shortcomings.

Dole/Packwood Creates Empty Work Requirements

The Dole/Packwood welfare block grant imposes the same tough work requirements as the Democratic alternative. Yet, the Dole/Packwood bill *does not offer states the money or the mechanisms to meet these work requirements.*

The bill initially triples the number of welfare recipients required to enter the work program, reaching 50 percent by the year 2002. *Yet the bill freezes funding at FY 1994 levels for five consecutive years.* This means Dole/Packwood offers no real money to fund increased enrollment in work programs or provide child care for recipients required to work.

states would be held accountable for results because they would receive performance bonuses for placing and keeping recipients in real jobs, while states that fail would be sanctioned. Further, the bill supplies new tools for linking recipients with private sector job opportunities, including job placement vouchers, and *pays those organizations only for results*. Finally, recipients must engage in work activities as soon as they receive assistance—as opposed to the 24-month waiting period Republicans allow.

The Democratic alternative also makes work pay more than welfare. By extending transitional Medicaid and transitional child care from one to two years and *guaranteeing* child care for those on welfare required to work, the Democratic alternative makes it realistic for states to meet their tough work requirements.

Moreover, Democrats offer a tough but sensible approach to *preventing* teen pregnancy (rather than punishing it) by providing grants to states and local communities for teen pregnancy prevention programs. And, instead of cutting teens immediately off welfare, Democrats give unwed teens and their children a second chance to improve their lives by creating "second-chance homes"—group residences in which young teen mothers would live under adult supervision with their children, while meeting their social and personal obligations for receiving welfare support. Democrats would fund these homes with close to \$100 million a year starting in FY 1996 and extending each subsequent year.

The Democratic alternative can achieve these system changes *without* passing unfunded mandates on to the states. The Democratic alternative sensibly cuts waste and fraud from the welfare system, making needed reforms in the food stamp program, the Supplemental Security Insurance program, and in rules governing noncitizens' eligibility for welfare, saving \$21 billion while still adequately investing in putting people to work.

However, if the Democratic alternative fails to muster enough votes for passage, the Dole/Packwood bill, if properly amended, could be brought closer to acceptable legislation. President Clinton has indicated a willingness to work with Republicans to craft a bipartisan welfare reform initiative. If the following amendments or modifications are added to the Dole/Packwood bill, welfare reform will still move in the direction of real work-based system *that can be supported by both parties*.

- ▶ *Work Bonus.* Sens. Joe Lieberman (D-CT) and Breaux would offer an amendment to establish a job placement bonus system that will reward states for successfully moving welfare recipients into unsubsidized jobs.
- ▶ *Fiscal Accountability/Maintenance of Effort.* Sen. Breaux would offer an amendment that ties the size of a state's block grant to the level of a state's financial contribution to the programs required by the block grant.
- ▶ *Teen Pregnancy Prevention.* Sen. Lieberman would offer an amendment to establish a national clearinghouse on teenage pregnancy, set goals to reduce out-of-wedlock births, and require states to establish a set-aside for teenage pregnancy prevention.

Because the cost of actually reaching the tough work requirements is so onerous, states are left with three basic choices: 1) purposefully fail to meet the work requirements and, instead, take a 5 percent penalty; 2) significantly reduce benefit levels or raise taxes as a means to fund the work requirements; or 3) simply cut hard-to-place recipients off the welfare rolls, choosing to work with only the easily employable.

Even if Sens. Dole and Packwood backed up their work requirements with the needed funds, their plan still lacks *mechanisms* to move recipients into work. Their bill offers no incentives to states for job placement; rather it only imposes sanctions. Nor does the bill take steps to actually change the culture of the welfare bureaucracy—the ingrained caseworker mentality that places income maintenance ahead of work and self-sufficiency as the principle goal of the welfare office. Further, despite their tough work requirements, their bill doesn't require recipients to work until 24 months have passed, and even allows recipients to remain in vocational education for 12 of those 24 months.

Dole/Packwood Doesn't Make Work Pay More Than Welfare

Republican budget constraints make it *impossible* to make work pay for welfare recipients by withholding *real* money for child care and health care benefits. The Dole/Packwood bill does not guarantee child care to those moving from welfare to work—even though 60 percent of Aid to Families with Dependent Children (AFDC) families have children under five years of age¹—and does not offer additional money for states to meet increased work program enrollment rates.

Additionally, despite the fact that 20 percent of AFDC recipients claim they remain on welfare to receive health care benefits,² Dole/Packwood does not extend transitional health care for those who leave welfare for work.

Even worse, many Senate Republicans have further discouraged work by demanding significant cuts in the earned-income tax credit (EITC)—a tax credit designed to supplement the wages of the working poor. Real welfare reform without the EITC will be impossible because a full-time minimum-wage job cannot support a family.

Dole/Packwood Allows States To Cut Unwed Teens Off Welfare

The Dole/Packwood bill includes punitive measures that *allow* states to cut off unwed teen mothers and their children without giving those teens a second chance to improve their lives. Also, the bill offers states options to curtail teen pregnancy, but does not back those options up with a comprehensive, funded plan. Dole/Packwood only really addresses the teen pregnancy problem *after* it happens, instead of laying out credible

¹Committee On Ways and Means, U.S. House of Representatives, *1994 Greenbook*, (Washington, DC: Government Printing Office, 1994).

²August 8, 1995 interview with Barbara Wolfe, director, Institute for Research on Poverty and professor of economics and preventive medicine, University of Wisconsin-Madison, based on research conducted by Prof. Wolfe and her colleagues.

plans for teen pregnancy prevention. Their proposal will more likely increase the abortion rate, rather than ameliorate the teen pregnancy epidemic.

Dole/Packwood Passes The Cost of Its Reform To The States

By offering no real money for child care and health care, and requiring states to increase fivefold the enrollment in the work program—again without additional funding—the Dole/Packwood bill is passing billions of dollars in unfunded mandates to states and local governments.

A Department of Health and Human Services (HHS) study indicates that over seven years, states would be required to spend an additional \$23.7 billion on work services and child care but would receive \$21.2 billion *less* in funding from the Republican leadership's Temporary Family Assistance Block Grant.³ Govs. Mel Carnahan (D-MO), Tom Carper (D-DE), Howard Dean (D-VT), and Roy Romer (D-CO) agree: "As governors on the front line of welfare reform, we view the current Republican proposals coming out of Congress to be largely a cost shift of enormous proportions to the states under the guise of flexibility."⁴

The House has already passed a similar weak-on-work, short-on-reality welfare block grant. In addition to the criticisms laid out above, the House bill is heavily laden with conservative prescription, including provisions *prohibiting* states from providing assistance to both unwed teen mothers and *legal* immigrants.

Democrats Move Forward

Yet, as Republicans have moved away from real work-based welfare reform, Democrats have moved toward it. The crucial step was taken when President Clinton joined with Senate Democrats in endorsing the Daschle/Breaux/Mikulski *Work First* proposal.

The Senate Democratic plan—which takes its name and much of its substance from the Progressive Policy Institute's March 1995 proposal—eliminates AFDC and creates in its place Temporary Employment Assistance (TEA). TEA makes cash welfare payments temporary and conditional on *rapid* movement toward full-time, unsubsidized work. The plan also abolishes the Family Support Act's Job Opportunities and Basic Skills (JOBS) program, and replaces it with the Work First Employment Block Grant to create an employment system that provides the means and the tools to link welfare recipients to private labor markets while still giving states nearly as much flexibility as in a block grant.

The employment system encourages private sector organizations to compete with the government in the provision of job placement and support services. *For the first time,*

³Preliminary estimates from HHS, Department of Agriculture, Department of Labor, Department of Housing and Urban Development, and Social Security Administration analysis of the *Work Opportunity Act of 1995*, 104th Cong., S. 1120, the Senate Republican Leadership's Welfare Reform Plan, August 7, 1995.

⁴Democratic Policy Committee Legislative Bulletin, *Family Self-Sufficiency Act*, 104th Cong., August 5, 1995.

- ▶ *Second-Chance Homes.* Sen. Kent Conrad (D-ND) would offer an amendment to provide funding for states to develop adult-supervised living arrangements, or second-chance homes, for teen mothers who are unable to live at home because of safety or abuse reasons.
- ▶ *Child Care Guarantee for those on welfare who are required to work.* Sens. Edward Kennedy (D-MA) and Chris Dodd (D-CT) would offer an amendment to restore the child care guarantee for recipients who are required to work. The amendment will provide full funding for this mandate, paid with offsets.
- ▶ *Child Care Allocations.* Sen. Orrin Hatch (R-UT) would offer an amendment to restore child care programs by moving child care funds from the block grant into separate, identifiable child care programs.
- ▶ *Job Training For the American Worker.* Sen. Breaux would lead the fight to strike language from Sen. Nancy Kassebaum's (R-KS) Workforce Development Act of 1995 included in the Dole/Packwood bill. If unsuccessful, Sen. Breaux would offer an amendment to the Dole/Packwood bill to require states to set up a system of skill vouchers for job training to aid dislocated workers. Such action from Sen. Breaux would *guarantee* job training to American workers dislocated because of the North American Free Trade Agreement (NAFTA) or the General Agreement on Tariffs and Trade (GATT)—a guarantee now in jeopardy as job training funds for American workers are shifted into the welfare system.

This Senate debate poses a fundamental choice: *real* work requirements and *real* system change or budget cutting and no real work. *Work as the overall goal for reform should not fall victim to partisan battles.* The President has indicated that he may sign an amended Dole/Packwood bill. Passage of the amendments laid out above can set the tone of the House/Senate conference committee and present the President with a viable bill.

Lyn A. Hogan is social policy analyst for the Progressive Policy Institute.

March 2, 1995

WORK FIRST:

A Proposal to Replace Welfare With an Employment System

By Will Marshall, Ed Kilgore, and Lyn A. Hogan

With each passing day, it becomes clearer that welfare reform cannot be achieved by the old Democratic prescriptions or the new Republican nostrums. Thus far, neither side has produced a plan that meets the goal overwhelmingly supported by the American public: helping welfare recipients achieve self-sufficiency through work. This conceptual paper is intended to fill that crucial gap.

President Clinton's 1994 welfare reform proposal set the right goal but did not chart a clear path to reach it. By imposing a two-year limit on unconditional cash assistance, the plan ended welfare's status as a permanent entitlement and created a powerful incentive for its recipients to work. But the White House blueprint did not include a practical means for moving welfare recipients into jobs: Instead, it maintained and even expanded the existing welfare bureaucracy, pumping more money into education and training programs that have largely failed to connect welfare recipients to the world of work and responsibility. While the Clinton plan offered states significant new latitude to pursue previously tested reforms without going through the cumbersome waiver process, it did not go far enough in empowering the states, the private sector, and welfare recipients themselves to find imaginative new solutions to welfare dependence.

Though GOP leaders dismiss the President's proposal as insufficiently bold, they cannot even achieve agreement on the objective of welfare reform. Republican efforts to craft legislation will either succumb to internal divisions—or achieve unity at the expense of genuine reform. In either event, Congress needs a clearly focused alternative that builds on public support for work-based welfare reform and supplies the resources and incentives to make it happen.

A Republican Retreat From Work-Based Reform

Some Republicans support work-based welfare reform in principle; others accept the more controversial premise that discouraging illegitimate births by cutting off benefits to unwed teen mothers will break the cycle of welfare dependence. Still

other GOP leaders, especially among governors, oppose any national reform of the welfare system, contending that states should take the lead with a minimum of federal guidance. Meanwhile, all three Republican perspectives on welfare reform are cramped by short-range federal budgetary concerns, including the need to generate savings to pay for promised tax cuts and defense spending increases.

The welfare block grant proposal announced in early January by House and Senate GOP leaders appeared to endorse the Republican governors' strategy for reform, explicitly abandoning any national goal for welfare reform other than reduced federal spending and total latitude for states. Moreover, the proposal repudiated national work-based reform by freezing federal funding for welfare-related services such as food and nutrition, child care, and employment and training—all key building blocks for any strategy to "make work pay" for welfare recipients.

But the various House committees charged with implementing the overall block grant plan are steadily subverting the promised state flexibility by inserting a mixed bag of negative prescriptions, including the Contract With America's ban on aid to legal immigrants and unwed teen mothers, and weak and ill-defined work requirements. Still missing in the GOP proposal is any clear and positive national blueprint for reform.

Thus, even in the supposedly focused and disciplined House, Republicans cannot produce a logically compelling or internally consistent welfare reform package. The amorphous legislative product will likely be "block grants" without flexibility, and an assault on benefits for immigrants and illegitimate children that may not survive the Senate—with only a rhetorical nod toward work without any of the resources or mechanisms needed to make work available.

The one element of the Republican package that will undoubtedly emerge unscathed is the block grant funding principle: converting welfare-related programs from entitlements to discretionary programs with funding levels arbitrarily frozen. In the absence of any national commitment to fundamental change in the welfare system, this step represents little more than a shift of power from federal bureaucrats to state bureaucrats, done on the cheap. The dismal result is likely to be phony welfare reform, achieved through phony devolution.

Refocusing Welfare Reform on Work

Welfare reform is too critical a task to be sacrificed to Republican disunity on goals, or Republican expediency on cost. But the President's 1994 proposal, welcome as it was as a step toward work-based reform, is an inadequate alternative that supplies too few bridges between welfare recipients and private labor markets, and too many detours into income maintenance or ineffective education and training programs.

The Progressive Policy Institute (PPI) Work First plan aims to convert welfare into an employment system through three main steps:

(1) Abolish both Job Opportunities and Basic Skills (JOBS)—the primary federal education and training program for welfare recipients, created by the 1988 Family Support Act—and Aid to Families with Dependent Children (AFDC), and substitute a Work First employment system that would establish as national policy that: (a) unsubsidized private sector work is the goal for public assistance recipients; (b) immediate work experience, not participation in education and training programs, is the best preparation for permanent employment for the vast majority of welfare recipients; and (c) all recipients of public assistance should perform some work, with community service as a fallback. In effect, the time limit for income maintenance would be zero.

(2) Pool AFDC and JOBS funding, calculated by the current formula but with a single match rate, to create a performance-based grant that offers financial rewards to states that succeed in placing and keeping welfare recipients in full-time, unsubsidized private sector jobs.

(3) Give states financial incentives to convert a portion of their employment system dollars into job placement vouchers that welfare recipients—as well as fathers of children on welfare who might contribute to family support through work—may use to purchase welfare-to-work services. Such services would comprise job placement and support, rather than education and training. By putting purchasing power directly in the hands of welfare recipients, vouchers would help stimulate a competitive market for job placement and draw private as well as public investment.

The PPI proposal promotes real devolution of decision-making on welfare reform, not phony devolution by block grants. Our more radical alternative transforms income maintenance and education and training programs into a single flexible, performance-based grant that allows states to design individual benefit packages targeted to what each recipient needs to quickly enter the workforce. It also strongly encourages the use of job placement vouchers to bypass federal and state bureaucracies and place resources directly in the hands of welfare recipients. This approach supplies unprecedented flexibility to respond to local economic conditions and program characteristics; moreover, it also gives the federal government a potent lever for reinventing social policy in ways consistent with the broad public consensus for programs based on work and reciprocal responsibility.

By abolishing the existing AFDC and JOBS programs, this proposal also simplifies the task of work-based welfare reform. Able-bodied recipients would no longer be entitled to cash assistance or specific education and training services *for any length of time*. By requiring recipients to pursue private sector job opportunities—and where necessary, community service work—as soon as possible,

the new system renders such action-forcing devices as time limits less significant, and perhaps even redundant. The presumption would be that the proper time limit for income maintenance or education and training prior to job placement is not two years or five years but *zero*. In addition, the proposal would allow states to begin addressing the "missing link" in welfare reform—absent fathers—by offering job placement services to noncustodial parents as part of an overall effort to create non-welfare streams of family income.

The "Work First" Architecture

The first step in work-based welfare reform is to *put work first*, changing the current system's incentives to make permanent employment in private sector jobs the paramount and immediate goal for every able-bodied recipient of public assistance, with serious community service work as a fallback option when necessary.

Many existing reform plans would expand education and training by increasing funding for JOBS. Yet careful, intensive studies conducted by the Manpower Demonstration Research Corp. and other reputable research groups have concluded that education and training programs produce only marginal results, at best modestly increasing earnings and decreasing welfare costs. A recent General Accounting Office report on JOBS also concluded that it is not well focused on employment instead concentrating more on participation requirements than on getting recipients jobs. The research also shows that programs that stress work and maintain strong ties with the private sector produce better results. For example, Riverside, California's work-focused Greater Avenues For Independence (GAIN) program accounts for 19 percent of all job placements while serving only 4 percent of the state's caseload.

Private organizations are reinforcing the case for emphasizing job placement over education and training. Examples include nonprofit organizations such as Project Match in Chicago, as well as America Works, a for-profit company that has placed more than 5,000 welfare recipients in private jobs at various sites around the country. The Work First system envisions a healthy competition in welfare-to-work services among public as well as private entities. Other options might include temporarily subsidizing private and public sector jobs with cash and food stamp benefits paid out as a wage as Oregon has done in its JOBS Plus program, and converting job training funds to loans for microbusinesses.

The Work First Employment System is based on the premise that the vast majority of those receiving welfare are capable of working if given the opportunity. Too many welfare recipients are shunted through ineffective education and training programs, or, worse, given nothing but a check and the option to sit at home. The system must change. The Work First system requires that everyone who can work, will work.

The Work First philosophy assumes that labor markets can absorb welfare recipients if the right supports and links to employers are in place. According to Gary Burtless, a prominent labor market economist with the Brookings Institution:

With roughly 7 million jobless workers, even at full employment, is it plausible to expect employers could offer an additional 2-3 million jobs for AFDC recipients forced to leave the welfare rolls? Surprisingly, most labor economists probably believe the answer to this question is "Yes."

Employers can accommodate a new supply of low-skill, low-cost labor. But we need an employment system that builds a bridge between this potential demand and the welfare recipients that can supply it.

The following elements make up a Work First Employment System:

- The new employment system would replace the AFDC and JOBS programs, converting funding for those programs—with additional federal money allocated by Congress—into a single flexible, performance-based grant that allows states to design individual benefit packages targeted to what each recipient needs to quickly enter the workforce.
- The new system would give states flexibility to design systems that put maximum pressure on welfare recipients to seek employment, but it would bar them from preemptively disqualifying any category of recipients currently eligible for aid, including teen mothers and immigrants. However, states would have the latitude to make receipt of assistance conditioned on compliance with its rules (e.g. sanctions for nonwork, time limits, etc.).
- The pool of money to be used for the employment system would be allocated to states using a new, single match rate set at 60 percent or the Medicaid match rate, whichever is higher. The federal match rate for implementing job placement voucher programs would be set at a higher level to encourage states to pursue vouchers over other strategies, thus increasing the match rate *for dollars put into vouchers*. States would receive a cash bonus equivalent to six months of federal funding (i.e., savings) for each welfare recipient placed in an *unsubsidized* full-time, private sector job for six months. They could reinvest this pool of savings in job placement vouchers or other incentives such as cash bonuses to recipients who find and stay in private jobs and to caseworkers who excel in job placement.
- Applicants for aid would apply at a government office and be evaluated by a caseworker or case team to determine individual needs. A screening process would divert those deemed immediately employable from the Work First system. No unconditional aid would be granted. At any point, a recipient who turns down a private sector or community service job would be denied access

to further employment services. Severely disabled applicants deemed unemployable would be moved to the Supplemental Security Income program.

- (1) Those with short-term, one-time emergencies *and* immediate employment prospects would receive Temporary Emergency Aid (also called "grant diversion"). Applicants would receive a one-time cash grant to cope with an emergency such as car trouble or overdue rent. If these recipients are determined to be in need of further assistance, they will enter the Work First Employment System at a reduced or zero benefit rate for a number of months determined by the state as adequate to repay the emergency grant. Modeled after Utah's grant diversion program, this approach aims to prevent people from unnecessarily entering the new employment system.
 - (2) Those not diverted would enter the employment system. States could require those entering the Work First system to engage in intensive job search before taking advantage of placement and support services. Recipients would sign an "employability contract" charting their individual paths to self-sufficiency through private sector work. A relatively small percentage of recipients will not be job-ready: people who can't read, those with serious drug or alcohol problems or a temporary disability, and mothers with children aged 16 weeks or younger. All but the last category may be referred to programs that offer counseling, training, or other services. But everyone, even if they are not ready for private job placement, should perform some community service work.
 - (3) The Work First employment system would offer job placement services, but not cash assistance, to the fathers of AFDC children (on the condition that, once employed, the fathers meet their child support obligations). In addition, mothers could agree to give their place in the system to fathers, in a step that may encourage families to stay together or reunite.
- A state could choose to refer recipients to either private intermediaries offering job placement and support services or to state employment offices offering similar services.
 - Private nonprofit and for-profit intermediaries and state offices would offer subsidized private sector work experience, job placement, and support services as needed, always with the goal of moving a recipient into full-time private sector work. Placement and support organizations would receive payment in full *for performance only*; for example, once a recipient has been *placed and retained* in a full-time, unsubsidized job for six months, one-third might be paid to the intermediary upon three months of job retention, with the

remaining two-thirds paid upon six months of job retention. State employment agencies could provide job placement and support services in competition with private intermediaries. Job placement organizations, whether private or public, would have a strong job development component as well as follow-up support services to help people stay in their jobs.

Job Placement Vouchers

By giving job placement vouchers directly to recipients, states could tap into and build a growing market for public and private agencies providing placement and support services.

Job placement vouchers can reduce costs, improve service delivery, shrink bureaucracy, and most importantly, empower low-income and unemployed Americans by giving them the resources to choose their own providers where and when they need a particular service. The job placement voucher proposal is aimed at significantly cutting long-term public costs by moving those on public assistance into productive private sector jobs. A strong federal commitment to a feasible job placement strategy is much more cost-effective than any short-term block-and-cut approach that abandons federal responsibility for welfare reform without supplying incentives to work.

States would individually set their voucher rates and develop a list of service providers eligible to redeem the vouchers—including placement agencies and private employers. The list would be made available to welfare recipients who enter the employment system and have completed intensive job search. Recipients would use the lists to make their service choices. A voucher would offer recipients quick access to placement and support agencies such as: America Works in New York; the Good Will Job Connection in Sarasota, Florida; high performance, state-run job placement programs such as the GAIN initiative in Riverside, California; temporary private sector work experience supplied by employers and subsidized with income assistance and a cashed-out food stamp benefit; microenterprise training programs; and other employment-based services.

In a full-fledged application of the voucher approach, state welfare bureaucracies could be transformed into agents for job placement in two ways: by performance incentives accompanying federal funds, and by direct competition with private providers for voucher benefits.

Additional Elements of a Work First Strategy for Welfare Reform

Aside from changing the incentives of the system from income maintenance and education and training to job placement, several other steps are necessary to an overall Work First strategy. First, we must *make work pay* more than welfare, and

recognize that any work-based reform of welfare is inconsistent with "on the cheap" approaches that make public assistance more attractive than private sector jobs.

The current system offers most recipients a package of welfare benefits worth thousands of dollars more than a full-time minimum wage job. Asset limits and welfare reductions for earned income penalize work and savings. To ensure that work, not welfare, is the rational choice for men and women alike, even entry level jobs must always pay more than the package of available welfare benefits. Raising the minimum wage, however, is the wrong answer, since most minimum wage earners do not live in poor families. The Clinton Administration in 1993 adopted the right approach: a \$21 billion expansion of the earned income tax credit, a direct subsidy to low-wage workers. Other changes necessary to make work pay include toughening child support enforcement, expanding child care support for the working poor, and providing health care subsidies to low-wage workers.

Second, we must develop an *empowerment strategy* to encourage the poor to build personal capacities and assets, replacing the paternalistic welfare bureaucracy as the primary source of income in impoverished communities. To encourage asset-based policies, we must promote saving and remove barriers to asset building, such as welfare's limits on how much people can earn or save, and housing rules that raise rents as incomes rise. Individual Development Accounts (IDAs) for low-income families are a particularly promising device. Like Individual Retirement Accounts for the middle class, IDAs would be tax-favored, annual contributions used only for college, home ownership, retirement, and small business start-up. Individual contributions could be matched by government, churches, community groups, businesses, and unions.

With adequate asset levels in place, we can pursue policies such as microenterprise that promote self-employment by making loans for small business. Based on successful lending projects in developing countries, U.S. microenterprise ventures tap the latent entrepreneurial talents of poor people, especially women, who face limited options in formal labor markets.

Third, we must improve *child support enforcement*, both to supply non-welfare streams of income to children on public assistance and to reinforce the responsibilities and benefits of parenthood, especially among fathers of children on welfare.

America's poor children deserve the support of both parents. Yet government estimates show that families actually collect less than one-third of the court-ordered payments to which they are entitled. Toughening child support enforcement and allowing mothers to keep a larger share of child support payments should dramatically increase collections. This will reduce public welfare costs and give mothers another source of income, so that even part-time work may be enough to lift them out of poverty. PPI's Work First strategy would require mothers to establish

paternity at birth as a condition for receiving public assistance, improve collection and enforcement of child support orders, and offer access to the employment system (but not cash benefits) for those non-working fathers who are delinquent in their child support payments.

Fourth, we must adopt a ***comprehensive strategy to prevent teen pregnancy***—combining unambiguous condemnation of irresponsible child-bearing with community-based solutions that strengthen and support families and reinforce community values.

PPI urges leaders in public and civic life, as well as in the media, to launch a national campaign to spread the message that it is morally wrong for teenagers to have children they cannot support financially or emotionally. We would reinforce that message with policy changes that end unconditional public assistance for unmarried teen mothers, hold fathers accountable to their children, and ensure more swift and certain punishment for sexual predators. At the same time, we should replace welfare's perverse rewards with a new set of positive incentives for young men and women to avoid premature parenting and finish high school.

Most importantly, PPI envisions a shift in the primary responsibility for reducing teen pregnancy from government to community institutions. For example, we propose creating a network of community-based *second chance homes* that would allow teen welfare mothers and their children to live in safe and supportive environments and provide the structure and discipline they need to finish school and raise their children. This would provide an alternative to teen mothers' setting up separate households or remaining in their parents' homes if those homes are unsafe or unstable. But it would stop short of punishing teen mothers by denying them public supports altogether, as House Republicans have proposed.

Conclusion

Genuine welfare reform can occur in this Congress, but only if the debate is refocused on work-based reform and practical ways to link welfare recipients with real-life work options. The Work First Employment System is designed to turn the incentives of the current system inside out. It would make private sector work the primary objective for both recipients and states, giving states accountable performance standards but great flexibility in achieving them. If implemented in the context of an overall Work First strategy, the new system could help deconstruct welfare and build a new empowerment strategy for poor communities and their citizens.

Will Marshall is President, Ed Kilgore is Senior Fellow, and Lyn A. Hogan is the Social Policy Analyst, of the Progressive Policy Institute.

Changes in Federal Law Needed for a Work First Employment System

- **Existing AFDC and JOBS programs would be abolished and replaced by a single performance-based grant offering financial rewards to states that succeed in placing and keeping recipients in private sector jobs.**
- **All who would be eligible for the AFDC system under current rules would remain eligible, including teen mothers and legal immigrants; states could offer noncustodial fathers job placement and support services but *not* cash benefits.**
- **States would receive funds previously available through AFDC and JOBS under a new match rate of 60 percent or the state Medicaid match rate, whichever is higher, as long as a Work First system is designed.**
- **Those deemed eligible for help would enter and remain in the employment system until they are placed in a private sector job; states would be given an option to adopt a "grant diversion" program of a one-time emergency payment to those with immediate employment opportunities needing only temporary assistance to see them through their emergency. States could require a job search before offering placement opportunities to recipients who are not "diverted" from the system.**
- **Any funds used by states to endow job placement vouchers would be matched at a higher rate, plus states would receive six months worth of foregone federal payments (i.e., savings) for each full-time unsubsidized job placement, as long as each recipient is placed and retained in the job for six months.**
- **States could at any point require community service work from recipients enrolled in the Work First Employment System.**

July 4 Recess Resolution Sparks Fireworks On Floor

Chiding House Republicans for not passing all 13 appropriations bills by June 30 — as is mandated by law but ignored almost every year — Democrats Thursday night forced and lost a procedural vote they hoped would embarrass Republicans.

House floor debate on the motion was often heated, and even was stopped for a time to sort out an argument between **Rep. J.D. Hayworth**, R-Ariz., and **House Appropriations ranking member David Obey**, D-Wis., over disrespectful comments and actions they made to each other.

Repeating a protest they also lodged last year, Democrats refused to take up by unanimous consent the resolution adjourning the House for the week-long July 4 recess.

Under a provision of the 1974 Budget Act designed to prod the House into passing the appropriations bills in time for the start of the new fiscal year Oct. 1, the House cannot adjourn for more than three days after June 30 unless all 13 spending measures have been approved. So far, the House has approved six of

the 13 FY97 appropriations bills — Military Construction, Foreign Operations, Agriculture, Defense, Interior and VA-HUD — and was slated to complete the seventh, Transportation, late Thursday night before leaving town.

There is a similar requirement for passing a budget reconciliation package.

However, those rules routinely have been ignored in previous years.

Top Republicans tried to convince Democrats this week to voluntarily waive the rule, but Democratic leaders refused. In response, the House Rules Committee passed a rule Wednesday night for bringing up on the House floor the adjournment resolution that waived the Budget Act requirement. Democrats objected to the rule, but lost the vote on it 248-166.

Democrats argued Republicans are going down the same road that caused last year's federal government shutdown.

"We are voting on this recess rule because once again the Republicans have not done their job," said **House Rules ranking member Joseph Moakley**, D-Mass. "Our Republican colleagues barely managed to fulfill their

responsibility last year. It looks like they may not be able to this year."

Republicans, however, noted they have finished more of the 13 appropriations bills than the Democrats completed by July 4 in many years.

"Democrats have no grounds for complaints about this July 4 adjournment resolution," **Rep. Lincoln Diaz-Balart**, R-Fla., contended.

While Obey was speaking during the debate, Hayworth sat in the front row needling him. Angered, Obey said that every time anybody says something Hayworth does not like, he starts shouting.

"You are one of the most impolite members I have ever seen in my service in this House," Obey said to Hayworth.

Hayworth demanded that Obey's words be "taken down" — a move that strikes the language if it is found to violate House rules — and demanded an apology.

Obey agreed to apologize, but only if Hayworth did. After prodding from a number of Republicans and a half-hour delay, Hayworth offered a lukewarm "regret" for his actions, which was matched by Obey.

House Leaders Plan For Immigration Bill Conference

House GOP leaders tentatively have selected conferees on the immigration reform bill and now are trying to resolve internal disputes over the legislation before the conference begins next month, *LEGI-SLATE News Service* reported Thursday, quoting a House Republican close to the negotiations.

Little public movement has occurred for some time on the immigration legislation. The House approved its bill March 21 on a 333-87 vote; the Senate passed its version May 2 on a 97-3 vote. Still, leadership aides late last week indicated Republicans expect to pass the conference report in July.

According to the House Republican, House GOP conferees will be led by **Judiciary Immigration and Claims Subcommittee Chairman Lamar**

Smith of Texas, the bill's sponsor, and **Judiciary Chairman Hyde**.

Rounding out the GOP delegation will be **Economic and Educational Opportunities Chairman Goodling** and **Reps. Elton Gallegly** of California, **Bill McCollum** of Florida, **Bob Goodlatte** of Virginia, **Ed Bryant** of Tennessee, and **Sonny Bono** of California, said the source, who stressed the roster still could change.

Earlier this week, Senate Democrats expressed their frustration over the lack of official action on the bipartisan legislation — and accused Republicans of delaying the start of conference proceedings in order to re-write the bill with special interest groups.

The House Republican source rejected that claim. He said private, pre-conference meetings routinely are scheduled by both parties.

GOP leaders are working through several difficult provisions dividing members, including language in the House-passed bill that would authorize states to deny access to public education for children of undocumented immigrants, the source said.

Republicans conferees will resolve disagreements on the public education issue before heading into conference, the source added. President Clinton has vowed to veto the final bill if the provision is included.

Meanwhile, a Democratic source said House Democratic conferees will include **Judiciary ranking member John Conyers** of Michigan, and **Reps. John Bryant** of Texas, **Barney Frank** of Massachusetts, and **Howard Berman** and **Xavier Becerra**, both of California.

Senate immigration conferees were announced last month.

POLITICS

JUDICIARY

Lott Leaves Door Open To Splitting Medicaid, Welfare

The debate intensified Thursday over whether Republicans should split their Medicaid and welfare reform proposals, and **Senate Majority Leader Lott** indicated it may not be a foregone conclusion that the two issues will remain tied.

Earlier this week, **House Speaker Gingrich** and Lott said they decided at the GOP governors' insistence to keep welfare and Medicaid reforms combined in their first budget reconciliation bill. The House is expected to take up the reconciliation bill soon after the July 4 recess, and the Senate is slated to take up the bill the week of July 15.

Nevertheless, Lott Thursday contended: "We're going to continue to look at what our options may be ... At this point our intent is to keep welfare and Medicaid together."

Prompting the disagreement over combining the two issues is the fact that President Clinton and congressional Republicans are much nearer agreement on welfare matters than on Medicaid — where the philosophical split over whether the health program for the poor should remain a federal entitlement remains seemingly insurmountable.

In fact, the administration in a letter this week opposed the GOP Medicaid plan, which would end the federal guarantee of healthcare coverage to the poor, and the decision to link it to the welfare proposal. But the administration was non-committal on support for the Republican welfare bill, while pointing out the measure still would drop an estimated 1 million children below the poverty line and deny Supplemental Security Income and food stamp benefits permanently to legal immigrants.

For their part, **Reps. John Ensign**, R-Nev., and **Dave Camp**, R-Mich., are sending another letter to Gingrich and Lott — already signed by 94 Republicans — expressing their belief that "separating the bills is clearly in the best interest of the American people."

"While we all agree that the need

for immediate reforms in both the welfare and Medicaid programs has exceeded critical mass, we are not swayed by the view that the two programs must be reformed together or not at all," Ensign and Camp noted in the letter. "Even if one of the bills is signed into law this year, our nation's governors will have substantially greater flexibility to make the local changes we all support."

Referring to the administration's resistance, Ensign and Camp added: "All the talk in the world about reforming the American welfare state is useless unless our reforms are signed into law, or the veto of the president is overridden by Congress. We have worked too hard to bring about changes in the welfare program as a group and as individuals to risk its final passage."

Two weeks ago, Ensign and Camp collected more than 50 signatures from Republicans on a letter supporting separation of the two bills, according to an Ensign statement.

House Ways and Means Human Resources Subcommittee Chairman Clay Shaw, R-Fla., who signed the latest Camp-Ensign letter, Thursday speculated the pressure to split the issues also is coming from within the leadership.

"I think the majority of the leaders want this separated. I know the majority of members want it separated," Shaw said. "We're working very hard to get them separated."

Shaw said one option would be to split the two measures in conference. Another strategy being mulled among the leadership, according to GOP sources, would be to send the Medicaid-welfare reconciliation bill to the White House for its expected veto and then send the president a separate welfare bill.

Meanwhile, **Reps. Michael Castle**, R-Del., and **John Tanner**, D-Tenn., sponsors of the House bipartisan welfare bill, filed a discharge petition Thursday that would execute a rule to bring their bill to the House floor and allow for three substitutes.

An aide to Tanner expected the effort could get 218 signatures easily, taking into consideration the roughly 94 members who already have signed the Camp-Ensign letter, which just was circulated Thursday.

The discharge petition would essentially force a separation of the Medicaid and welfare bills. Using the Castle-Tanner measure as the base bill, it would allow for one Democratic substitute, one Republican substitute and one from the sponsors of the bipartisan bill.

Separately, Camp and **Sen. Spencer Abraham**, also R-Mich., Thursday introduced legislation to approve Michigan's welfare waiver request announced Wednesday by Michigan GOP Gov. John Engler.

Like the Wisconsin waiver request passed by the House earlier this month but not yet taken up by the Senate, the Michigan bill would allow the state to bypass the normal federal approval process for its 76 waiver requests.

At a press conference, Abraham said due to Clinton's veto last year of welfare reform, "Congress has no choice but to promote welfare reform by extending waivers to states, like Michigan, who have already demonstrated their competency and success."

The Michigan plan contains many of the same provisions as the Wisconsin plan, including mandatory work and minor parent live-at-home requirements.

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Hill to wrestle again with welfare reform

GOP wary after two Clinton vetoes

By Cheryl Wetzstein
THE WASHINGTON TIMES

This past week, welfare reform resumed its place as one of Congress' most contentious and politically volatile issues.

President Clinton has tried to embrace innovative solutions drafted by Republican governors but twice vetoed less-sweeping reforms passed by the Republican-led Congress.

The Republican National Committee has launched a television advertising blitz questioning Mr. Clinton's commitment to make good on his 1992 campaign pledge to "end welfare as we know it."

The president's allies warn that the GOP's federal overhaul does not guarantee a minimum level of support for the poor during a deep recession. Further, block grants in the GOP bill allow governors to use federal money for welfare or other programs.

The toiling will continue until Election Day, and expectations for a meeting of the minds are extremely low. Congressional hearings have begun anew on the Republican and Democratic approaches to reform.

Between now and Election Day, both parties will accuse each other

see WELFARE, page A8

WELFARE

From page A1

of bad faith on welfare reform. Here's a review of what has and has not happened with this issue since the early stages of the 1992 campaign for the presidency.

- Throughout his 1992 campaign, Gov. Clinton wins applause and cheers with his promise to "end welfare as we know it." But as president, he focuses first on health care reform, leaving welfare reform, which he believes will cost billions of dollars to do, to a task force.

- Spying a vacuum, House Republicans set up their own welfare task force and in November 1993 introduce a bill with 162 co-sponsors. The GOP plan saves \$20 billion over five years, mostly by ending welfare to immigrants.

- Senate Republicans offer a similar welfare bill two months later.

- In his 1994 State of the Union address, Mr. Clinton promises the Democratic-led Congress he will send it a "comprehensive welfare reform bill" in the spring.

- In March, a draft of the White House welfare plan is leaked and hastily released; the plan's \$15 billion price tag attracts the most attention.

- In April, a band of conservative Republicans reject the House GOP bill in favor of a welfare plan that converts more than 60 programs into a block grant and saves \$70 billion over five years.

- A month later, House Democrats known as the Mainstream Forum introduce a version of welfare reform that is estimated to cost \$18 billion over five years.

- On June 14, 1994, to great fanfare, Mr. Clinton unveils his long-awaited welfare plan in Kansas City, Mo. Welfare will now "be about a paycheck, not a welfare check," he says.

The Clinton plan targets young welfare parents, sets a two-year time limit after which recipients must work, and creates a new government-funded work program. It costs \$9.3 billion over five years.

Republicans scorch the plan: "It's half-joke, half-fraud," says Empower America co-director William J. Bennett. It "may be the end of welfare reform as we know it," snipes Senate Minority Leader Bob Dole, Kansas Republican.

- On Sept. 27, 340 Republican congressmen and GOP hopefuls pledge to fulfill a "Contract With America," which includes welfare reform, if elected.

- On Nov. 8, Republicans win control of both the House and the Senate.

- On Jan. 5, 1995, the Republican-controlled House Ways and Means Committee holds the first of dozens of hearings on Contract items, including welfare reform.

Although GOP reforms — especially efforts to give states control of the school-lunch program — are bitterly denounced by advocacy groups, House Democrats do not mount a substantial challenge to the GOP and the White House welfare plan is barely mentioned.

- In March, a jubilant House passes, 234-199, a welfare reform bill that saves \$120 billion over seven years and makes sweeping changes to cash welfare, child-support enforcement, child care, food and school-nutrition programs and the Supplemental Security Income system.

- In May, the Senate Finance Committee rejects a welfare reform bill by Sen. Daniel Patrick Moynihan, New York Democrat, that costs \$7.9 billion over five years, and passes a bill written by committee Chairman Bob Packwood, Oregon Republican.

Mr. Clinton says the Packwood reform is a "step in the right direction... but still misses the point on work and on children."

Senate conservatives deride the Packwood bill for sidestepping illegitimacy issues and keeping a costly jobs program; eventually 24 GOP conservatives abandon the Packwood bill for their own welfare reform bill.

- In August, Mr. Dole, the majority leader, unveils a new welfare bill with 31 GOP co-sponsors. But the bill isn't embraced by GOP conservatives, and Mr. Dole pulls it from floor debate.

- When the Senate returns in September, GOP conservatives signal their support for Mr. Dole's welfare bill while liberal Republicans threaten to scuttle it if changes aren't made on health care and child care.

After intense negotiations, more child care funding is added, and the Dole bill now appears poised to win bipartisan support, especially after a Democratic alternative, drafted by Senate Minority Leader Tom Daschle, is defeated. Mr. Clinton uses a radio address to say that the Dole bill is "within striking distance" of acceptable welfare reform.

- On Sept. 19, the Senate passes welfare reform, 87-12, with support from 35 Democrats. Liberals are appalled.

- A campaign to deter Mr. Clinton from signing GOP welfare reform quickly commences, and in early November, the Office of Management and Budget (OMB) releases a report saying that GOP welfare reforms could increase the number of children in poverty by 2.2 million over 10 years.

Mr. Clinton heeds these warnings, although Democratic Sens. John B. Breaux of Louisiana and Joseph I. Lieberman of Connecticut dispute the veracity of the OMB findings.

- In November, the 42-member Senate-House welfare panel charged with merging the two chambers' bills announces that, except for the school-lunch section, it is done with its work.

But the school-lunch problem snags the bill for more than a month. Neither GOP Sens. Richard G. Lugar of Indiana nor James M. Jeffords of Vermont will en-

dorse the conference report on the bill with school-lunch reform and Rep. Bill Goodling of Pennsylvania, who endured weeks of abuse over school-lunch reform, will not endorse it without the reform.

- Five days before Christmas, the school-lunch impasse is resolved when Mr. Jeffords endorses the bill in exchange for more child care funding. The House passes welfare reform 245-178, and the Senate passes it 52-47. Estimated savings: \$58 billion over seven years.

- On the evening of Jan. 9, 1996, when the Capitol is in the midst of

the blizzard of 1996, Mr. Clinton vetoes the welfare reform bill.

- For much of 1996, welfare reform appears hostage to the presidential political battle between Mr. Clinton and Mr. Dole.

- In February, the nation's governors pass bipartisan resolutions about what they want in welfare and Medicaid reform. House and Senate leaders hold hearings but welfare reform appears to be doomed until April, when the White House offers a new bill, and last week, when the House Republicans introduce their latest version of welfare reform.

The Washington Times

★ TUESDAY, MAY 28, 1996

Gadhafi conciliatory, Egypt's Mubarak says May not build chemical weapons plant

By David W. Jones
THE WASHINGTON TIMES

CAIRO — President Hosni Mubarak said yesterday he believes he has persuaded Libyan leader Moammar Gadhafi to abandon plans for a chemical weapons plant in a mountainside outside Tripoli.

"All right, I am not going to do it," Mr. Mubarak quoted the Libyan leader as telling him during talks Sunday and yesterday in the Egyptian capital. The two leaders may meet again today.

Mr. Mubarak, who made the revelation in an exclusive interview with *The Washington Times*, said he had conducted extensive talks with Mr. Gadhafi about his

plans for the chemical weapons plant at Tarhuna, about 35 miles southeast of the Libyan capital.

It was the first time either leader has confirmed U.S. intelligence reports that such a plant was under construction. Libya has maintained the site was being developed as an irrigation project. As recently as this weekend, Col. Gadhafi publicly dismissed U.S. charges about the facility.

Defense Secretary William Perry said during a visit to Egypt in April that Mr. Mubarak still required more proof. The United States has threatened to destroy the plant, saying it could not allow Libya to build such a facility.

Mr. Mubarak stressed that no

chemical-making equipment had yet been installed in the network of tunnels under the mountain at Tarhuna.

"There are tunnels but no installations, no equipment," the Egyptian president told *The Times*. "I think the Americans know very

see MUBARAK, page A7

MUBARAK

From page A1

well that there is no activity in these tunnels."

Mr. Mubarak, who values Mr. Gadhafi as a bulwark against Islamic fundamentalism in the region, said the Libyan leader "listens very well, although sometimes he needs to be told the real picture of things."

"I spoke with him, told him to find a way to show there is no intention to install equipment for chemical production. I think he agreed with that and we are working on it."

"I explained to him the situation ... it would be very difficult to defend it, and what do you need chemical weapons for? I had long talks with him until he understood it very, very well. And I think he will not go through with it."

Mr. Mubarak said Mr. Gadhafi told him: "All right, I am not going to do it, but why are they concentrating on me and leaving nuclear weapons in Israel?"

Israel refuses to officially confirm or deny it has nuclear arms, though the Jewish state is widely assumed to have developed such a weapons program at the Dimona

nuclear facility in the Negev Desert. Experts believe Israel may have as many as 200 nuclear weapons in its arsenal.

Mr. Mubarak said he was working on the nuclear issue with the Israelis and with his Arab neighbors. Arab nations have called on Israel to open up its nuclear program to international inspectors.

Mr. Mubarak said he and Mr. Gadhafi also discussed international sanctions imposed on Libya after the bombing of Pan Am Flight 103 in the skies over Lockerbie, Scotland, in December 1988. Libya has been accused of sheltering two men believed responsible for the bombing.

"I told him, 'I don't think that anything will happen until after the elections,'" Mr. Mubarak said, an apparent reference to the U.S. presidential campaign.

Mr. Mubarak said he told the Libyan leader: "Nobody will look at this issue now. Slow down until after the elections and see what will be done."

Local press reports said the two leaders also discussed a variety of joint economic projects, adding the two will evaluate the work of joint committees looking at setting up a shared electrical network and a railway link between their two countries.

THE WHITE HOUSE
WASHINGTON

HOUSE/SEN
WR 7/18

Castle 168-258 D's 160-35
R's 8-222

Recommit 203-220 D's 195-0
R's 7-220

Final 256-170 D's 30-165
R's 226-4

Dodd	96-0	Care health + safety
Lott	voice	Strike Medicaid
Ashcraft	50-47 Failed	Byrd (request by bush)
Breaux	51-47 Failed	Vouchers (B-C)
Faircloth	21-77	

TALKING POINTS

We welcome the changes the Senate made to promote work and protect children, and we hope there will be no backsliding in conference. Key improvements:

- Medicaid guarantee for families on welfare
- Dropping food stamp block grant option
- Maintenance-of-effort/transferability
- No child welfare block grant
- Equal protection

Republicans need to decide whether they're going to work toward a bipartisan bill that can become law, or just play politics by trying to force a veto so they can continue to make welfare an issue. There is no room for extremism in this bill. The House was wrong to add mean-spirited provisions like the Kasich amendment, and the conference should resist these extremist ideas.

Our goal in welfare reform is to promote work and protect children. The current bills have been improved significantly in these areas since the President vetoed the extremist Dole-Gingrich welfare bill in January. Key improvements since veto:

- \$4 billion more in child care; retain safety standards
- \$2 billion in contingency fund
- Higher state match, performance bonuses for placing people in jobs
- Dropped cuts in child welfare, school lunch, and disabled children

We have to continue this bipartisan progress in conference. In particular, we need to do everything we can to protect children. We can achieve real welfare reform if it is bipartisan, and if it is tough on work and responsibility, not tough on children. When it comes to protecting our children, we cannot afford backsliding. Republicans and Democrats must put politics aside and work together to make the most of this historic opportunity, and give the American people the best possible bipartisan welfare reform bill to fix a broken system.

**NATIONAL
GOVERNORS'
ASSOCIATION**

Bob Miller
Governor of Nevada
Chairman

George V.oinovich
Governor of Ohio
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20002-1512
Telephone (202) 624-4400



July 26, 1996

Dear Conferees:

RE: Welfare Reform Conference

As you and your colleagues meet to craft a conference agreement on the Personal Responsibility and Work Opportunity Act of 1996, the National Governors' Association urges you to adopt our bipartisan recommendations to enable states to implement meaningful and effective welfare reform programs.

Governors strongly embrace the transformation of welfare into a transitional program leading to work. States, in fact, have taken the lead in developing innovative programs around work. However, we are concerned that there are provisions in both the House and Senate bills that restrict state flexibility and will create additional unfunded costs. We believe, too, that the work requirements and other provisions in the bill must be reasonable and flexible to accommodate the varying economic situations and status of reform efforts that exist among states.

Governors recommend the following.

Hours of Work—NGA policy strongly supports limiting the required hours of work for single parent families to 20 hours in FY 1997-1998 and 25 hours in FY 1999 and thereafter. According to CBO, states will need an additional \$13 billion above what is provided in the Senate bill to meet the work requirements which include a 35 hour work requirement in later years. Giving states the option to limit the hours to 25 will make it more likely that states will actually be able to meet the work participation rate. The House bill, which would require single parents to work 30 hours in FY 2000 and thereafter is closer to the NGA policy.

Work activities defined—NGA supports the Senate provision that would give states the *option* to provide educational training to recipients and have their participation count, in a limited way, toward the work participation rate. We urge conferees to recede to the Senate provisions that would allow states to count 30% of individuals engaged in educational activities for 24 months. For many individuals, basic education, such as literacy, is a critical first step toward getting a job.

NGA also recommends adoption of the House language which does not impose an age limit on education related to employment or secondary school for those who have not completed high school.

Work rates—NGA supports the work participation rates that were contained in HR 3507/S 1795, as introduced, which are five percent lower than the current versions of the bills. Without additional resources, CBO estimates that most states will have difficulty meeting the rates. NGA asks conferees to return to these levels.

Page 2
July 26, 1996

Counting individuals who leave welfare for work—NGA policy takes a strong position that states should receive credit in the work participation rate for successfully moving people off welfare and into employment, thereby meeting one of the primary goals of welfare reform. NGA urges conferees to add a provision to the conference agreement that would allow states to count at least a portion of these individuals, or to count them for a specified amount of time in the work rate calculation.

Job Search—The NGA clearly prefers House language which allows job search and job readiness to count toward the work participation rate for up to 8 weeks a year. NGA policy supports job search and job readiness counting for 12 weeks a year. NGA urges you to modify the House provision, however, by striking the sentence which would have the effect of counting as a whole week of job search (and thereby against the 8-week limit), *any* time spent on job search—even one hour. Job search has proven to be a cost-effective strategy for moving people from welfare to work and states should be encouraged to provide it.

Penalties on work rate and other areas—NGA strongly urges conferees to delete the additional penalties imposed under the Senate bill. The Senate bill would add an additional 5% penalty to the existing penalty on states for failure to meet the work requirement. This would be applied cumulatively for consecutive failure to meet the work requirement. This is unduly harsh, particularly given the stringent work requirements, and will significantly reduce the federal funds necessary to achieve welfare reform.

We also urge conferees to strike the Senate provision which authorizes the Secretary to impose penalties on states for failure to comply with any provision in Title IV-A or a state's plan. This is a broad expansion of the Secretary's authority.

Fair and Equitable Treatment—The language in the House bill, requiring states to set forth objective criteria for the delivery of benefits and the determination of eligibility is consistent with the NGA welfare proposal. Some states are concerned that the language in the Senate bill requiring states to "treat families with similar needs and circumstances similarly" is ambiguous and may be contrary to some existing waivers, may inhibit states' ability to design programs including personal responsibility contracts, and could lead to unnecessary litigation.

No sanctions allowed for failure to participate in work—Both bills prohibit states from sanctioning families with children under age 11 if the family proves that failure to participate in work was due to lack of child care. These families will be counted in the work rate calculation, effectively penalizing states and making it harder to meet the work rate requirements. The bills, as introduced, limited the exception to families with children under age six.

Pro rata reduction in work rates—NGA encourages conferees to add FY 1994 as a base year for comparisons of net caseload reduction so that states can choose FY 1994 or FY 1995, whichever is higher. Without this modification, states that began their welfare reform innovations early and have already had demonstrated successes may not benefit from this provision. We also urge you to allow an adjustment to net out effects on caseload size due to increases in a state's population. Otherwise, high growth states do not benefit equally from this provision.

Page 3
July 26, 1996

Denial of benefits to individuals with a drug conviction—NGA urges the conferees to recede to the House and strike the provision in the Senate bill that denies federal means-tested benefits to individuals who have been convicted of drug use, possession or distribution. This will be an extremely costly provision, if not impossible, for states to enforce requiring an exchange of information and tracking that does not routinely occur now. States are very concerned about the unfunded costs associated with this provision.

Contingency Fund — NGA asks conferees to strike a provision in the "reconciliation" language of the contingency fund that effectively reduces the federal match that states would receive from the contingency fund unless states drew down from the fund in every month of the year.

Time Limit on Cash Only—NGA supports the five-year time limit applying *only to cash assistance*. States should have the flexibility to provide transportation, job retention counseling and other non-cash services.

Cuts in the Social Services Block Grant (SSBG)—NGA opposes the 20% cut in the SSBG contained in the Senate bill and urges conferees to recede to the House bill and limit the cut to 10%. States use a significant portion of the SSBG for child care for low-income families.

Regulation E Exemption—NGA urges conferees to retain the provisions in both bills which provide a *full* Regulation E exemption for all state and local electronic benefits transfer (EBT) programs. NGA strongly supports this exemption which is necessary for states to move ahead with EBT. Recently-proposed alternatives to a full exemption are not acceptable because they continue to create a new entitlement and unfunded mandate.

Legal Immigrant Permanent Bar on Medicaid—States are greatly concerned about the House language which permanently bars legal immigrants from receiving Medicaid. This represents a significant cost shift to the states.

FOOD STAMPS

Food Stamp Work Requirement—NGA opposes the House provision which limits food stamps receipt to 3 months for non-working able-bodied individuals age 18-50 without dependents. This provision creates tremendous demands on states' information systems, requiring states to track an individual's food stamp participation history for as long as 32 years.

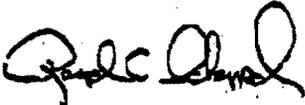
The NGA supports the Senate provision which would allow four months of receipt each year, with work required during the remaining eight months. NGA also supports the additional flexibility provided in the Senate bill which allows states to count up to two months of job search toward the work requirement and allows a 20% exemption of cases for hardship reasons.

Simplified Food Stamp Program (SFSP). NGA supports the provision in the Senate bill for determining cost neutrality under the SFSP which allows adjustments for changes in other public assistance benefits and allows for a corrective action period.

Page 4
July 26, 1996

Food Stamp Waivers—States support the provision in the House bill which broadens the waiver authority of the Secretary of USDA to grant waivers under the food stamp program to undertake innovative welfare reform strategies.

Sincerely,



Raymond C. Scheppach
Executive Director

KEY IMPROVEMENTS IN CONFERENCE REPORT OVER VETOED BILL

CLINTON PRIORITY	VETOED BILL	CONFERENCE BILL
Guaranteed Medicaid	NO	YES
More Child Care \$	NO	YES (+\$4 billion)
Work Performance Bonus \$	NO	YES (+\$1 billion)
80% Maintenance of Effort	NO	YES
Child Care Health/Safety Standards	NO	YES
20% Hardship Exemption	NO	YES
\$2 Billion Contingency Fund	NO	YES
Limits on Transferability	NO	YES
Equal Treatment	NO	YES
Personal Responsibility Agreements	NO	YES
Option for Vouchers	YES	YES
Food Stamp Block Grant	YES	NO
Child Welfare Block Grant	YES	NO
School Lunch Block Grant Demo	YES	NO
25% Cut in SSI for Disabled Kids	YES	NO
Food Stamp Cap	YES	NO

WELFARE REFORM CONFERENCE PRIORITIES

Note: Assumes conferees have agreed to Senate positions on child protection and on Medicaid coverage for welfare recipients and current immigrants.

Provisions to Retain

Food Stamp Block Grant: Retain Senate provision by eliminating the optional food stamp block grant.

Food Stamp Work Requirements for 18-50s: Retain Senate provision to allow benefits for 4 months out of 12, give States flexibility to exempt up to 20%, allow job search for 1 to 2 months, and provide relief for high unemployment areas.

EITC Credit for Childless Workers: Retain House position to continue inflation adjustment of the credit for childless workers, like the rest of the tax code.

State Accountability: Retain Senate language on fair treatment, including national standards for fair hearings, appeals, State accountability, and safeguards against fraud and abuse. Retain Senate provision to ensure that States continue to spend at least 80% of current funding, and limit transferability of federal block grant funding to child care only.

Children's Provisions

Legal Immigrants: Exempt children from bans on SSI, Food Stamps and Medicaid. Protects 300,000 children. Exempt immigrants who become disabled after entry.

Food Stamp Shelter Deduction: Delete the proposed cap on the excess shelter deduction, so that food stamp benefit levels for families with children are calculated in the same manner as the elderly.

Child Vouchers After 5-Year Time Limits: Require/allow vouchers for children after the time limit.

TALKING POINTS
URBAN INSTITUTE STUDY
7.26.96

The Urban Institute has released a poverty analysis of the House welfare reform bill, contending that it would move 1.1 million children below the poverty line when fully phased in. By contrast, their estimate was 2.1 million for last year's House bill, 1.5 million for the vetoed bill, and 1.2 million for last year's Senate bill which we supported. The report attributes most of these impacts to cuts in Food Stamps and legal immigrants, rather than AFDC, but it recommends vouchers and a 25% hardship exemption from the time limit.

From our perspective, the report overlooks several crucial points:

Child Support: The analysis does not take into account the increase in child support collections that will result from enactment of the welfare reform bill. This is a glaring omission. If all parents paid the child support they should, we could move more than 800,000 women and children off welfare immediately.

Minimum Wage: The report does not take into account the impact that the pending increase in the minimum wage will have in reducing poverty -- both by raising earnings for working families (\$2,000 a year for a full-time worker) and by making work considerably more attractive than welfare. OMB estimates that through the combined impact of the 1993 changes in EITC and Food Stamps and the pending increase in the minimum wage, we will have moved 1 million children out of poverty. This reduction in poverty is taking place immediately -- while the Urban Institute's hypothetical increase in poverty is projected for the year 2002.

Senate Improvements: The study is based on the House bill, before the Senate improvements. The Senate bill has about 10% less in budget cuts than the House bill.

Value of Work: The study assumes that welfare reform will do little to change behavior. We believe that work requirements, time limits, child care and health care -- in combination with a higher minimum wage and the EITC -- will change behavior dramatically. Work will become far more attractive than welfare, and the welfare system will have to focus on putting people in jobs instead of writing them checks. We also believe that work has inherent value. Over the long term, children who grow up in families and communities where there is work will be far better off than children who grow up in families and communities where there is only welfare -- even if the children on welfare look slightly better off in a static poverty analysis.

WELFARE REFORM Q&A
ADELANTE CON CLINTON PHONE CALL
JULY 27, 1996

Q. Will you veto the Congressional welfare reform bills if they include bans on benefits for legal immigrants?

A. Throughout this debate, I have been troubled by the depth of cuts in benefits for legal immigrants. The House welfare bill would actually take Medicaid away from legal immigrants who are already in this country -- literally throwing people out of nursing homes. That's just wrong. [NOTE: You should focus your criticism on this provision -- the House bill's retroactive ban on Medicaid, which would throw current Medicaid recipients off the rolls. We believe we can beat the retroactive Medicaid ban in conference.]

Q. Will you draw the line at deeming, or can you support a ban?

A. I supported the Castle-Tanner welfare reform bill in the House, which included an important exemption for immigrant children. I also supported the Breaux-Chafee bill in the Senate, which exempted the disabled. I am working hard to get the Congress to moderate these cuts.

Q. Do you think Congress is unfairly singling out immigrants for blame?

A. People in public life should be working to bring this country together, not looking for ways to divide us. That is why I am so offended by the Gallegly provision to let states ban illegal aliens from schools. I am pleased that many prominent Republicans and every major law enforcement organization are standing with me. If Congress sends me the Gallegly amendment, I will veto it -- because it's the right thing to do.

Congress of the United States

Washington, DC 20515

July 24, 1996

The Honorable Clay Shaw
esl Mr. Chairman
Washington, D.C. 20515

Dear Mr. Chairman:

Now that both the House and Senate have passed sweeping welfare reform bills, we are very close to an historic overhaul of welfare programs. As you begin your work on the welfare reform conference report, we wanted to share with you our views on several important issues in the legislation.

1) **Giving states the tools to move welfare recipients to work** It is critical that any welfare reform bill provide states with the flexibility and resources necessary to operate successful work programs. We are concerned that the mandates in H.R. 3734 are unrealistic and conflict with work programs that states are currently implementing. The National Governors' Association adopted a resolution expressing concern about "restrictions on state flexibility and unfunded costs" in the work requirements of H.R. 3734. The Congressional Budget Office determined that there would be a \$12.9 billion shortfall in the funding necessary to meet the work requirements in H.R. 3734. CBO assumed that most states would choose to accept penalties instead of attempting to meet the work requirements and indicated that states would be forced to restrict eligibility and reduce benefits in order to offset the increased costs of meeting the work requirements. The Opportunities Committee recognized the problem states would face in meeting the work requirements when it authorized \$3 billion in discretionary funds for work programs, but it is unlikely that these funds will ever be appropriated. We must provide states with the flexibility and resources necessary to continue the reforms that are being implemented across the country if welfare reform is to be successful.

2) **Protection for children.** We are very concerned about provisions in H.R. 3734 prohibiting states from providing any assistance to children in families who lose cash assistance because of the time limits. The federal government should not prohibit state legislatures from choosing to provide non-cash assistance for the needs of children after the time limit. The fiscal pressures facing states makes it unlikely that states will be able to provide vouchers with state funds if they are prohibited from using any federal funds to provide vouchers. Allowing states to exempt twenty percent of the caseload from the time limits will not address this issue because states will need to utilize this hardship exemption to exempt the portion of the caseload that everyone acknowledges are not able to work because of disability or other causes.

3) **Preserving Medicaid eligibility.** The House bill contained language added as part of the self-executing rule preserving current eligibility standards for Medicaid coverage. The Senate adopted a similar provision with strong bipartisan support. Maintaining this provisions is critical to ensuring that the bill does not result in a reduction of health care coverage for low-income families or increase the burden of uncompensated care on health care providers.

4) **Preserving Food Stamp safety net** The House bill contained an optional food stamp block grant which will jeopardize the national food stamp safety net. The Senate adopted a bipartisan amendment eliminating the food stamp block grant. The Senate also unanimously adopted an amendment ensuring that individuals who are actively seeking

employment through a structured job search program will not lose food stamps as a result of a time limit. We urge you to adopt the Senate provisions on both of these issues to ensure that the food stamp safety net is preserved for the less fortunate in society.

5) Protecting health care providers from uncompensated care We are concerned about the impact that denying Medicaid to non-citizens will have on the health care system. The House bill would deny Medicaid to all legal immigrants, including those currently in the country, until citizenship. This will effectively deny Medicaid to 7,000 individuals. However, health care providers will continue to be morally and legally obligated to provide care to these individuals, resulting in a \$9 billion cost shift to health care providers that will affect the availability and quality of care for all Americans. The Senate bill moderated the impact of these provisions by applying the ban prospectively only. The conference report should at a minimum adopt the Senate position on this issue.

6) Applying savings to deficit reduction The savings in this bill are almost certainly the only deficit reduction from entitlement programs that has a chance of being enacted this year. We are therefore troubled by reports that the savings from this bill will be used to fund a tax cut before Congress has enacted savings to achieve a balanced budget. We urge you to add "lockbox" language to the conference report ensuring that any savings from the bill are applied to deficit reduction.

A conference report which addresses the concerns outlined above will receive strong bipartisan support and, more importantly, will ensure that welfare reform is successful. We remain hopeful that a meaningful welfare reform bill can become law this year if the issue can be separated from partisan political concerns.

We look forward to working with you to develop a strong, workable welfare reform bill that can become law.

Sincerely,

The Royal Order of Flying Pigs

Congress of the United States

Washington, DC 20515

July 25, 1996

The Honorable Clay Shaw
Chairman
Subcommittee On Human Resources
B-317 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Now that both the House and Senate have passed sweeping welfare reform bills, we are very close to an historic overhaul of welfare programs. As you begin your work on the welfare reform conference report, we wanted to share with you our views on several important issues in the legislation. The Senate bill made important improvements in the areas of equal protection, maintenance of effort and transferability, and child protection that must be preserved. In addition, there are several issues that should be addressed in a conference report. These issues are based on the motion to instruct conferees that was unanimously approved by the House:

1) **Giving states the tools to move welfare recipients to work.** It is critical that any welfare reform bill provide states with the flexibility and resources necessary to operate successful work programs. We are concerned that the mandates in H.R. 3734 are unrealistic and conflict with work programs that states are currently implementing. The National Governors' Association adopted a resolution expressing concern about "restrictions on state flexibility and unfunded costs" in the work requirements of H.R. 3734. The Congressional Budget Office determined that there would be a \$12.9 billion shortfall in the funding necessary to meet the work requirements in H.R. 3734. CBO assumed that most states would choose to accept penalties instead of attempting to meet the work requirements and indicated that states would be forced to restrict eligibility and reduce benefits in order to offset the increased costs of meeting the work requirements. The Opportunities Committee recognized the problem states would face in meeting the work requirements when it authorized \$3 billion in discretionary funds for work programs, but it is unlikely that these funds will ever be appropriated. We must provide states with the flexibility and resources necessary to continue the reforms that are being implemented across the country if welfare reform is to be successful.

2) **Protection for children.** We are very concerned about provisions in H.R. 3734 prohibiting states from providing any assistance to children in families who lose cash assistance because of the time limits. The federal government should not prohibit state legislatures from choosing to provide non-cash assistance for the needs of children after the time limit. The fiscal pressures facing states makes it unlikely that states will be able to provide vouchers with state funds if they are prohibited from using any federal funds to provide vouchers. Allowing states to exempt twenty percent of the caseload from the time limits will not address this issue because states will need to utilize this hardship exemption to exempt the portion of the caseload that everyone acknowledges are not able to work because of disability or other causes.

3) **Maintenance of Effort** The Senate bill contained a somewhat stronger maintenance of effort provision and greater protections ensuring that federal block grant funds are used for the purposes of the program by limiting transfers to the child care block grant. Maintaining the Senate provisions on these issues is important in ensuring that Federal and state resources are devoted to moving welfare recipients to work and protecting children.

4) **Preserving Medicaid eligibility.** The House bill contained language added as part of the self-executing rule preserving current eligibility standards for Medicaid coverage. The Senate adopted a similar provision with strong bipartisan support. Maintaining this provision is critical to ensuring that the bill does not result in a reduction of health care coverage for low-income families or increase the burden of uncompensated care on health care providers.

5) **Preserving Food Stamp safety net.** The House bill contained an optional food stamp block grant which will jeopardize the national food stamp safety net. The Senate adopted a bipartisan amendment eliminating the food stamp block grant. The Senate also unanimously adopted an amendment ensuring that individuals who are actively seeking employment through a structured job search program will not lose food stamps as a result of a time limit. We urge you to adopt the Senate provisions on both of these issues to ensure that the food stamp safety net is preserved for the less fortunate in society. We also urge you to restore the excess shelter deduction for families with children.

6) **Protecting health care providers from uncompensated care.** We are concerned about the impact that denying Medicaid to non-citizens will have on the health care system. The House bill would deny Medicaid to all legal immigrants, including those currently in the country, until citizenship. This will effectively deny Medicaid to thousands of individuals. However, health care providers will continue to be morally and legally obligated to provide care to these individuals, resulting in a \$9 billion cost shift to health care providers that will affect the availability and quality of care for all Americans. The Senate bill moderated the impact of these provisions by applying the ban prospectively only. The conference report should at a minimum adopt the Senate position on this issue.

7) **Maintain protections against child abuse** The House bill placed programs for child abuse prevention into a block grant. The Senate eliminated this provision. The conference report should not put programs for child abuse prevention into a block grant.

8) **Applying savings to deficit reduction.** The savings in this bill are almost certainly the only deficit reduction from entitlement programs that have a chance of being enacted this year. We are therefore troubled by reports that the savings from this bill will be used to fund a tax cut before Congress has enacted savings to achieve a balanced budget. We urge you to add "lockbox" language to the conference report ensuring that any savings from the bill are applied to deficit reduction.

A conference report which addresses the concerns outlined above will receive strong bipartisan support and, more importantly, will ensure that welfare reform is successful. We remain hopeful that a meaningful welfare reform bill can become law this year if the issue can be separated from partisan political concerns. We look forward to working with you to develop a strong, workable welfare reform bill that can become law.

Sincerely,

