

Senate Welfare Reform SAP Inserts--August 4, 1995

[add-ons to capstone summary]

A. More families may have to make do with less food on the table, if States spend food stamp block grant funds elsewhere. Finally, House and Senate Republican plans to date cut low-income programs too deeply, compromising their ability to serve the needy.

[paragraph on overall cuts being too high--Insert in section on Protecting the Vulnerable]

B. Reduced spending for low income programs is possible while still protecting the most vulnerable. The Administration proposed \$38 billion in carefully tailored cuts for certain welfare programs. But the magnitude of the cuts being considered by the Congress--between \$100 billion and \$120 billion over seven years--compromises the ability of these programs to serve vulnerable low-income groups. This is exacerbated by the absence of maintenance of effort requirements on States. It is not realistic to expect States, to make up for the reduced Federal spending from their own revenues. Many will ultimately pass on the drastic cuts to children and families, who will endure further benefit cuts or even losses in benefit eligibility.

*Protect
revenue,
promote
work*

state & local taxpayers

DRAFT

August 1, 1995
(Senate)

Senate Welfare Reform Bill
(Dole (R) KS)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that would: establish tough work requirements while providing opportunities for ~~education, job training, and child care~~ to working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children. ~~These are still the President's goals, and we are committed to these principles.~~ [RECORD]

BC
RECORD
all debate has been done a long way - emphasize/prepare
It includes high CSE proposed by the Pres.

~~We understand that Senator Dole soon plans to bring to the floor a revised welfare reform bill. Based on Senator Dole's public statements, the revised bill is an improvement over its House counterpart. [It maintains funding for child protective services, and omits the restrictions on assistance for minor mothers, as long as they remain in supervised settings. By incorporating legislation on job training and child care, it attempts to use two key elements of the President's goals, but in deeply flawed and, in the end, superficial ways.]~~

But the current Senate bill still falls short on the central goal of welfare, which is moving people from welfare to work. The Dole plan is faulty because it does not provide the child care and training resources to move people from welfare to work; the block grant structure cannot give the added assistance needed during economic downturns; States are not required to maintain current levels of effort and thus may end up purging many families from the welfare rolls; there are no safeguards for children when a family is cut off assistance; and States are given the option of a Food Stamps block grant. House and Senate Republican plans to date cut between \$100 billion and \$120 billion over seven years from low-income programs. The welfare system that would result from this approach does not meet the President's goals and does not satisfy the nation's needs.

C. care
acct for results
Performance, not
cutting off

Some cuts in low-income programs are clearly necessary; the Administration proposed cutting \$38 billion over seven years. From the perspective of the nation's needs, the Dole plan is unacceptable and the Administration strongly opposes this legislation in its current form.

Moving People from Welfare to Work

There is a bipartisan consensus that the central goal of welfare reform must be work. Work has always been at the heart of the President's approach to welfare reform over the last fifteen years, and work was at the core of the Family Support Act. Work undergirds the welfare reform waivers this Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa and several dozen other States. But if the system is to provide work-based incentives for States and welfare recipients, there must also be the resources for child care, training and work. State bureaucracies should be rewarded for getting people to work or prepared for work--not for cutting people from the rolls. Unlike the legislation proposed by the Administration last year, however, the current Senate bill would not end welfare as we know it by

moving people from welfare to work. We understand Senator Dole's welfare reform bill is combined with S. 143, Senator Kassebaum's bill to consolidate more than 90 vocational training programs. While the Administration supports the goals of S. 143, we have serious concerns about a number of provisions in the bill. Of paramount concern is the bill's failure to ensure proper accountability for \$9.1 billion in federal training and vocational education funds. If S. 143 were adopted, the federal government could not assure taxpayers that States spent federal funds to achieve the national goals of improving skills of workers, facilitating the transition from school to work, and helping severely disadvantaged people return to the education and work mainstream.

S. 143 lacks sufficient authorization of appropriations for the consolidated programs. The President's FY 1996 budget proposes to increase funding for training by \$1 billion over FY 1995; S. 143 would cut funding by 15%. Not only is there insufficient funding for the nation's workforce needs in total, the result of this legislative merger means billions less for jobs for people on welfare and billions less to keep people off welfare and at work.

S. 143 authorizes, but does not require, the use of skill grants for adult training. In the President's proposed G.I. Bill for America's Workers, skill grants would put training resources directly in the hands of dislocated workers and low income adults so that they can make informed training choices. Among the other concerns about S. 143 are the bill's failure to target resources on the most disadvantaged; devolving the successful Job Corps program to the States; the elimination of the Summer Jobs program; and the complex new bureaucracy created by the unwieldy federal governance structure.

By including the Child Care and Development Block grant (CCDBG), the Dole proposal purports to fill the critical role of child care in getting family heads back to work. It fails to do this. Child care needs for welfare recipients are far in excess of CCDBG. Adding CCDBG to the legislation has no practical benefit.

Welfare reform should provide incentives and resources that reward States for putting more people to work, not for cutting them off. People who can work must go to work, and they must have child care when they do. The Administration supports a welfare reform bill that provides added resources so States can meet ambitious work participation requirements without throwing people off the welfare rolls. The Senate proposal ensures more demand for welfare, less ability to work.

Protecting Children and States

The Senate bill hurts children and States.

- o In contrast to the funding mechanisms now in place, funding for temporary assistance to needy families under the Dole bill would not adjust adequately to cushion the impact of unemployment and economic stagnation. States in recession will encounter reduced revenues and increased caseloads. The Dole bill apparently has a "rainy day" loan fund that allows States to borrow additional money during economic downturns, as well as

extra funding for States projected to have high population growth. However, there is no guarantee that the finite amount that such States receive will be adequate. And if there is population growth in a majority of States, each will get a diminished share of the fixed dollars. This is completely inadequate.

- o The Dole bill would neither require nor encourage States to contribute resources to welfare reform. There is a danger that States would "race to the bottom" to save State dollars or to deter migrants from other States. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the investments needed to help people become self-sufficient.
- o We are unaware of provisions in the Dole bill that affect SSI. To the extent that the Dole bill draws on the Senate Finance bill, however, the Administration is concerned that the latter would deny Supplemental Security Income (SSI) benefits to more than 350,000 disabled children over the next five years. In addition, the bill includes a mandatory five-year cut off of temporary assistance benefits for needy families without regard to their circumstances. There is no protection for children when their parents are unable to work due to illness, disability, the need to care for a disabled child, or high local unemployment.

Preserving the Health and Nutrition of Adults and Children

The Administration understands that the Senate is likely to consider as an amendment, S. 904, the Agriculture Committee's proposal to amend the Food Stamp and child nutrition programs. The Administration strongly supports the Agriculture Committee's decision not to block grant these critical federal programs which have produced significant and measurable improvements in nutrition and health. However, the Administration is deeply concerned that the Senate will consider an amendment which would give States the option of dismantling the federal Food Stamp program. A Food Stamps block grant is harmful for the same reasons an AFDC block grant is a poor idea; a bad economy increases low-income households' need for food assistance while the funding level remains frozen. If, as reported, the Dole bill allows States to shift 25% of a food stamps block grant to other programs, nutrition assistance for needy families could decline even further. Senior administration officials already have recommended that the President veto a bill which either block grants or provides an option to block grant the Food Stamp program.

In addition, the Administration is concerned about the severity of the cuts to the Food Stamp program and eligibility restrictions in S. 904. Under the bill, a substantial number of low-income Americans who are willing to work will lose their Food Stamp benefits because States are unable or unwilling to provide sufficient work and training opportunities. Rather than promoting work, this approach simply opens a hole in the nutrition safety net.

Provisions Affecting Non-Citizens

While the Administration is not aware of the specific provisions affecting immigrants in the Dole bill, we support fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to

bear greater responsibility for those whom they encourage to enter the United States. However, the Administration strongly opposes the Senate Finance bill's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the bill's application of deeming provisions to the Medicaid program.

Daschle-Breaux-Mikulski Reform Proposal--Real Welfare Reform

The Senate has the chance to enact real welfare reform. The Administration strongly supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Unlike Senator Dole's plan and the House-passed H.R. 4, this proposal provides resources and incentives to move people to work, protects children, requires States to maintain their stake in helping their neediest citizens, and provides adequate adjustment mechanisms for economic downturns and population growth. The Administration urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform.

Pay-As-You-Go Scoring

Senator Dole's proposal would reduce direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring estimate for this bill is under development.

Comments on 8/1 Welfare Reform Draft SAP

p. 1, 1st graph, 2nd sentence: "...providing child care to working people" (drop "opportunities for education, job training")

p. 1, 1st graph, last sentence: Drop "These are still the President's goals"

p. 1, 2nd graph: Insert new graph on POTUS record: "Over the past two and a half years, the President has been fighting for these basic principles. His economic plan expanded the earned income tax credit, which rewarded work over welfare and cut taxes for 15 million working families. Last February, the President issued an Executive Order to crack down on federal employees who owe child support. The Administration has already approved welfare reform experiments in 32 states, and has pledged fast-track approval for similar demonstrations in states that want to toughen work requirements backed up with child care, time limit welfare and cut off people who refuse to work, require fathers to pay child support or go to work to pay off what they owe, require minor mothers to live at home and stay in school, and use money now spend on welfare and food stamps to provide a subsidy for employers who hire people to leave welfare and go to work. The President has also directed the Office of Management and Budget to change federal regulations and impose tougher sanctions, so that when a recipient's welfare check goes down for refusing to work, the recipient's food stamp payment no longer goes up."

p. 1, 2nd graph: Replace the current 2nd graph with the following: "The welfare reform debate has come a long way in some key areas since this Congress first took up the issue. Not so long ago, some in Congress were promoting orphanages as the solution to illegitimacy. Now the Senate leadership substitute includes provisions from the President's bill instead, requiring minor mothers to live at home and stay in school. Earlier this year, some in Congress wanted to leave child support enforcement out of the welfare reform debate. Now there is a bipartisan consensus for the toughest possible child support enforcement, and both the welfare reform bill passed by the House and the Senate leadership substitute include every major child support enforcement provision from the President's bill."

p. 1, 3rd graph: Replace the current 3rd graph with the following: "But the Administration opposes the Senate leadership substitute in its current form because it still falls short on the central goal of real welfare reform, which is moving people from welfare to work. It does not provide the child care which is essential to imposing tough work requirements, it does not require states to uphold their responsibility to promote work by maintaining current levels of effort, and it gives states an incentive to cut people off, instead of rewarding states for their success in moving people into work. It will seriously undermine states' ability to require work because it shifts an enormous cost burden to state and local taxpayers, and it puts states at risk in the event of economic downturn, with no safeguards for children. The Administration supports real reform that saves the taxpayers by moving people off welfare rolls and into work, not by simply sending the welfare problem to the states with more mandates and less money." [NOTE TO KEN: We need to talk about how best to say this last point. I think it's awkward and imprecise to say we're for 38, they're for 100+; our real

point is these cuts are so deep they'll shift costs to states and hurt kids.]

p. 1, last graph, 1st sentence: Replace with the following: "Welfare reform will only succeed if its central goal is work."

p. 1, last sentence: Replace "Unlike the legislation proposed by the Admin last year" with "Unlike the Daschle-Breaux-Mikulski substitute which the Administration strongly supports"

p. 2, 1st sentence: Insert a series of bullets on our key work-related concerns, concluding with a long bullet on training (although it might be less confusing if the training piece were a separate section):

"The bill in its current form will not succeed in moving people from welfare to work. To promote work, the bill should be changed to:

Provide incentives for states to maintain their stake in moving people from welfare to work. [Insert the 1st full graph from page 3.]

Provide child care to move people from welfare to work and to keep people from going on welfare in the first place. It makes no sense to deny child care for people trying to leave welfare and for working people who are trying to stay off welfare. Furthermore, by putting resources for cash benefits, child care, and employment assistance into one block grant, the current bill provides no guarantee that States will put any money into work programs and child care that move people off welfare. The Administration recommends that employment and child care be funded separately from cash benefits, and that the bill be changed to ensure that people who can work go to work and have child care when they do.

Provide incentives that reward States for putting more people to work, not for cutting them off. The current bill gives States an incentive to save money by throwing people off the rolls. To change the culture of the welfare office, the bill should be changed to reward success instead of the status quo. The Administration supports a performance bonus that would focus the welfare bureaucracy and recipients on the central goal of moving from welfare to work.

Protect States and families in the event of economic downturn, so that welfare reform doesn't shift a huge burden onto state and local taxpayers and States can afford to put people to work instead of putting poor families at risk. [Insert the last full graph from page 2, followed by something like "The Administration recommends that the bill be changed to adjust for increases in unemployment and population."]

p. 2, graphs 1, 2, and 3: Separate section on Training?

p. 2, remaining graphs: Delete.

p. 3, SSI: We should update this when we get the bill text.

p. 3, Health and Nutrition, 1st graph: 1st two sentences OK. Change rest of graph to read: "However, the Administration is deeply concerned that the leadership substitute gives States the option of a Food Stamp block grant, which would allow States to use for their own purposes money that should go for nutrition assistance to make sure working families and needy children have enough to eat. In addition, any State that exercises such an option will see its food assistance decline dramatically in the event of recession or population growth." NOTE: We do not have a veto threat over a state option food stamp block grant.

p. 3, Health and Nutrition, 2nd graph: Delete "eligibility restrictions" in 1st sentence. Insert new 2nd sentence: "The Administration supports requiring Food Stamp recipients without children to go to work or train for work in return for their assistance. But the current bill does not provide States the resources to require work."

p. 3, Health and Nutrition, new graph: Insert a new graph on our food stamp fraud provisions: "The Administration is deeply troubled that the current bill does nothing to crack down on food stamp fraud. The Administration has offered a comprehensive anti-fraud package that [explain what it does]. The current bill should be changed to include the Administration's tough measures to fight fraud."

p. 3-4, Immigrants: Looks good, but update when we see the bill

p. 4, Daschle bill: After the 2nd sentence, insert the following from the President's statement today: "Instead of maintaining the current welfare system -- which undermines our basic values of work, responsibility, and family -- this plan sends people to work so they can earn a paycheck, not a welfare check. Unlike the Senate leadership substitute and the House-passed H.R. 4, this proposal provides the child care people need to move from welfare to work, and to enable them to stay off welfare in the first place; holds state bureaucracies accountable for real results, and rewards states for putting people to work, not just cutting people off; and saves money by moving people to work, not by shipping the states more problems and less money. The Administration urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform."

URGENT**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET****ROUTE SLIP**

TO: Ken Apfal	Take necessary action	<input type="checkbox"/>
Bruce Reed	Approval signature	<input type="checkbox"/>
David Ellwood	Comment	<input checked="" type="checkbox"/>
	Prepare reply	<input type="checkbox"/>
	Discuss with me	<input type="checkbox"/>
	For your information	<input type="checkbox"/>
	See remarks below	<input checked="" type="checkbox"/>

FROM: Chris Mustain
(202) 395-3923 fax 395-6148

DATE: Thu Jun 15, 1995 9:34am

REMARKS

Attached is the latest version of the Senate Welfare Reform SAP, edited to reflect comments agreed to between HHS and DPC. Please review and provide any final comments by 2:30 pm today, June 15th. Thank you.

cc: Jim Murr
Janet Forsgren
Barry White
Keith Fontenot (7)
Doug Steiger
Wendy Taylor
Chuck Konigsberg
Lydia Muniz

DRAFTJune 15, 1995
(Senate)**H.R. 4 - Family Self-Sufficiency Act**
(Packwood (R) OR)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that embodied these values. The President's proposal would: establish tough work requirements while providing opportunities for education, job training, and child care to working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children.

In all its welfare reform efforts, the Administration has emphasized the basic values of work and responsibility. The President's economic plan expanded the earned income tax credit, which cut taxes for 15 million working families, to reward work over welfare. Last February, the President issued an Executive Order to crack down on Federal employees and military personnel who owe delinquent child support. In the past two years, the Administration has granted waivers from Federal welfare rules to 29 States to try innovative ways to promote work and responsibility. The Administration remains committed to working with the Congress in a bipartisan way to pass bold welfare reform legislation this year.

The Senate version of H.R. 4 is somewhat improved over its House counterpart. The Senate bill includes tough child support enforcement provisions proposed by the President, maintains funding for child protective services, and omits some provisions from the House bill that would be very harmful to children. The Administration, nevertheless, ~~opposes~~ the Senate bill because it still falls far short of the basic goals and values that most Americans want welfare reform to promote. It fails to reform welfare by moving people from welfare to work, it puts States and children at risk of serious hardship, and it could impair the health and safety of families and children. ~~welfare reform that~~

Moving People from Welfare to Work

There is a bi-partisan consensus that the central goal of welfare reform must be work. Unlike the legislation proposed by the Administration last year, however, the current Senate bill would not end welfare as we know it by moving people from welfare to work. The bill provides neither the resources nor the incentives for States to move welfare recipients into the workforce. The Congressional Budget Office (CBO) estimates that the work requirements in this bill would cost States roughly \$10 billion in the year 2000 alone. CBO has suggested that without

*does not support**in its current form**The Admin supports welfare reform that saves money, but protects children, and moves people from welfare to work.*

additional resources for work and child care, only a handful of States -- perhaps six -- would be able to meet the bill's work requirements.

In fact, H.R. 4 would repeal three child care programs that now serve more than 640,000 children. It makes no sense to cut child care for people trying to leave welfare and for working people who are trying to stay off welfare in the first place. Furthermore, by putting resources for cash benefits, child care, and employment assistance into one block grant, the bill provides no guarantee that States will put any money into work programs and child care that move people off welfare. The Administration strongly recommends that employment and child care be funded separately from cash benefits.

H.R. 4 should provide incentives and resources that reward States for putting more people to work, not for cutting them off.

People who can work must go to work, and they must have child care when they do. The current bill gives States an incentive to save money by throwing people off the rolls. To change the culture of the welfare office, the bill must reward success instead of the status quo. The Administration supports a performance bonus that would focus the welfare bureaucracy and recipients on moving from welfare to work.

Protecting Children and States

The Administration is concerned that the Senate bill may hurt both children and States. To that end, the bill should be changed to:

- o Protect States and families in the event of economic downturn, population growth, or unpredictable emergencies. In contrast to the funding mechanisms now in place, funding under H.R. 4 would not adjust adequately for such events. For example, States in recession would encounter reduced revenues and increased caseloads. The Senate bill includes a very modest "rainy day" loan fund that allows States to borrow additional money but requires that loans be repaid with interest. This is completely inadequate. H.R. 4 should include adjustments to a State's allocation based on an increase in the number of poor children or changes in unemployment and population. In such times, it is the working poor who would most likely need, but not receive, temporary assistance.
- o Provide incentives for States to maintain their stake in moving people from welfare to work. H.R. 4 would neither require nor encourage States to contribute resources to welfare reform. There is a danger that States would "race to the bottom" to save State dollars or to deter migrants from other States. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the

investments needed to help people become self-sufficient. H.R. 4 should require States to provide matching funds or to maintain their current level of funding. *effort*

- o Protect children, not punish them. H.R. 4 would deny Supplemental Security Income (SSI) benefits to more than 350,000 disabled children over the next five years. The Administration favors a more reasonable set of reforms to tighten SSI eligibility. In addition, the bill includes a mandatory five-year cut off for families and children without regard to their circumstances. Any such provision should protect children when their parents are unable to work due to illness, disability, the need to care for a disabled child, or high local unemployment. Finally, while the Senate bill wisely omits House provisions to base State funding in part on an "illegitimacy ratio", the Senate bill fails to include provisions to address teen pregnancy. The Administration supports a national campaign against teen pregnancy, and believes that minor mothers should receive benefits when they make a serious effort to be responsible and turn their lives around -- by living at home, staying in school, and identifying the child's father.

Preserving the Health and Nutrition of Adults and Children

The Administration ^{to} understands that the Senate is likely to consider as an amendment, S. 904, the Agriculture Committee's proposal, amend the Food Stamp and child nutrition programs. The Administration strongly supports the Committee's decision not to block grant these critical programs. The Administration, however, is concerned about the severity of the cuts to the Food Stamp program and eligibility restrictions in S. 904. The Food Stamp and child nutrition programs have produced significant and measurable improvements in nutrition and health.

H.R. 4 also should provide fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility for those whom they encourage to enter the United States. However, the Administration opposes H.R. 4's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the bill's application of deeming provisions to the Medicaid program.

Daschle-Breaux-Mikulski Reform Proposal

The Administration ^{strongly} supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Unlike H.R. 4, the proposal provides resources and incentives to move people to work, protects children, requires States to maintain their stake in welfare reform, and provides adequate adjustment mechanisms for economic downturns and population growth. The Administration

urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform.

Pay-As-You-Go Scoring

H.R. 4 would reduce direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring estimate for this bill is under development.

* * * * *

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

LRM NO: 2251

FILE NO: 15

8/4/95

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 8

TO: Legislative Liaison Officer - See Distribution below:
FROM: Janet FORSGREN (for)
Assistant Director for Legislative Reference
OMB CONTACT: Melissa COOK 395-3924
Legislative Assistant's line (for simple responses): 395-7362
SUBJECT: Proposed Statement of Administration Policy RE: S1120,
REPUBLICAN WELFARE REFORM PLAN

DEADLINE: 4:00pm Friday, August 04, 1995

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: In responding to this LRM, please provide ONLY SUBSTANTIVE CHANGES APPROVED BY A POLICY OFFICIAL. We understand that the Senate could begin debate on the Republican leadership bill as early as TOMORROW, AUGUST 5TH. Therefore, the deadline is FIRM; IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU DO NOT HAVE ANY COMMENT ON THIS SAP. (Please note that S. 1120 incorporates S. 143, Kassembaum's Workforce Development Act.)

URGENT

LEGISLATIVE REFERRAL MEMORANDUM
Distribution List

LRM NO: 2251

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Jim Murr
Janet Forsgren
Connie Bowers

**RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM**

**LRM NO: 2261
FILE NO: 15**

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Melissa COOK 395-3924
Office of Management and Budget
Fax Number: 395-6148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: Proposed Statement of Administration Policy RE: S1120, Personal Responsibility Act of 1995

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT

August 4, 1995
(Senate)

S. 1120 - Republican Leadership Welfare Reform
(Dole (R) KS and 31 others)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that would: establish tough work requirements while providing child care for working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children.

Over the past two and a half years, the President has been fighting for these basic principles. His economic plan expanded the earned income tax credit, which rewarded work over welfare and cut taxes for 15 million working families. Last February, the President issued an Executive Order to crack down on Federal employees who owe child support. The Administration has already approved welfare reform experiments in 32 States, and has pledged fast-track approval for other State demonstrations that pursue specified reform strategies. Such strategies include: (1) strengthening work requirements backed with child care; (2) limiting the duration on welfare for people who refuse to work; (3) making parents pay child support or go to work; (4) requiring mothers who are minors to live at home and stay in school; and (5) using welfare and food stamp benefits as subsidies for employers who hire welfare recipients. The President has also directed that Federal regulations be changed to ensure welfare recipients who refuse to work do not enjoy increased Food Stamp benefits to offset the decreases made in their welfare checks.

The welfare reform debate has come a long way in certain key areas since this Congress first took up the issue. Not so long ago, some in Congress were promoting orphanages as the solution to illegitimacy. Now, the Republican leadership bill includes provisions from the President's proposal requiring mothers who are minors to live at home and stay in school. Earlier this year, some in Congress wanted to exclude child support enforcement from the welfare reform debate. Now, there is bipartisan agreement on the toughest possible child support enforcement, and both the House-passed H.R. 4 and the Republican leadership bill include the President's major child support enforcement provisions. In addition, the Republican leadership bill adopts the Administration's position that child protection programs for abused children must be protected, and includes an important provision from the President's welfare reform plan that welfare recipients must sign personal responsibility contracts as a condition of assistance.

The Administration, however, opposes the Republican leadership bill because it falls short of the central goal of real welfare reform -- moving people from welfare to work. It does not provide the level of child care resources necessary to support the imposition of tough work requirements. Similarly, it does not provide incentives for States to promote work. Instead, the bill encourages States to remove people from the welfare rolls by allowing States to reduce the level of State welfare funding. It further undermines the goal of transitioning people from welfare to work by

authorizing a block grant that would shift an enormous cost burden to States and localities and place these entities at risk during an economic downturn. Moreover, no safeguards are provided for children whose families lose assistance. More families may have to make do with less food on the table, if States spend Food Stamp block grant funds elsewhere. Finally, House and Senate Republican plans to date cut low-income programs too deeply, compromising their ability to serve the needy. The Administration supports real reform that saves taxpayer dollars by promoting independence -- moving people off welfare rolls and into work -- not by simply sending the welfare problem to the States with more mandates and less money.

The Administration's most significant concerns are discussed below. As the Administration continues its review of the Republican leadership bill, it may identify other troublesome issues and will work with Congress to address those concerns as well.

Moving People from Welfare to Work

Welfare reform will succeed only if its central goal is work. Work has always been at the heart of the President's approach to welfare reform. Work has provided the foundation for the welfare reform waivers the Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and dozens of other States. If a welfare system is to provide work-based incentives for States and welfare recipients, adequate resources for child care, training, and work must be available. State bureaucracies have to be rewarded for getting people into the workforce or preparing them to enter the workforce -- not for cutting them from the rolls.

Unlike the Daschle-Breaux-Mikulski substitute which the Administration strongly supports, the Republican leadership bill would not end welfare as we know it by moving people from welfare to work. The Republican leadership bill will not succeed in moving people from welfare to work. To promote work, the bill should be changed to:

- Provide incentives for States to maintain their stake in moving people from welfare to work. The Republican leadership bill would neither require nor encourage States to contribute resources to welfare reform. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the investments needed to help people become self-sufficient. In sum, there is a real danger that States would "race to the bottom" to save State dollars or to deter migrants from other States.
- Provide child care to move people from welfare to work and to keep people from going on welfare in the first place. It makes no sense to deny child care to people trying to leave welfare and to working people who are trying to stay off welfare. By aggregating funding for cash benefits, child care, and employment assistance into one block grant, the Republican leadership bill provides no guarantee that States will put any money into child care and work programs that move people off welfare. The Administration recommends that the bill be modified to: (1) fund employment and child care separately from cash benefits; and (2) ensure that people who can work, do so, and have child care that they need.

- Provide incentives that reward States for putting more people to work, not for cutting them off. The Republican leadership bill gives States an incentive to save money by throwing people off the rolls. To change the culture of welfare, the bill should be modified to reward success instead of the status quo. The Administration supports a performance bonus that would focus the welfare bureaucracy and recipients on the central goal of moving from welfare to work.
- Protect States and families in the event of economic downturn, so that welfare reform does not shift a huge burden onto State and local taxpayers, and States can afford to put people to work instead of putting poor families at risk. In contrast to current funding mechanisms, funding for temporary assistance to needy families under the Republican leadership bill would not adjust adequately to cushion the impact of unemployment and economic stagnation. States in recession would encounter reduced revenues and increased caseloads. The Republican leadership bill would provide a "rainy day" loan fund that would allow States to borrow additional money during economic downturns. In addition, extra funding would be available to States projected to have high population growth that meet certain criteria. There is no guarantee, however, that the finite amount that such States receive will be adequate. And if there is population growth in a majority of States, each will get a diminished share of the fixed dollars. Such an outcome is completely inadequate. The Administration recommends that the bill be changed to adjust for increases in unemployment and population.

Training People for the Future

The training provisions in the Republican leadership bill, including the consolidation of over 90 vocational training programs, would not adequately address the needs of people trying to transition from welfare to work. Of paramount concern is the bill's insufficient funding for the consolidated programs. While the President's FY 1996 budget proposes to increase funding for training by \$1 billion over FY 1995, the Republican leadership plan would cut funding by 15 percent. Not only is the plan's funding insufficient for the Nation's workforce needs as a whole, the consolidation of these programs would mean billions of dollars less would be available to help people stay off welfare and to help others transition from welfare to work.

In addition, the Republican leadership bill would not ensure proper accountability for \$9.1 billion in Federal training and vocational education funds. If the bill were adopted, the Federal Government could not assure taxpayers that States were spending Federal funds to achieve the national goals of improving workers' skills, facilitating individuals' transition from school to work, and helping severely disadvantaged people return to the education and work mainstream.

Unlike the President's job training proposal, the Republican leadership bill would not require the use of skill grants for adult training. Thus, there would be no guarantee that training resources would be put directly into the hands of dislocated workers and low-income adults, so that they

could make informed training choices. Other concerns about the Republican leadership bill include its: (1) failure to target resources on the most disadvantaged; (2) devolution of the successful Job Corps program to the States; (3) elimination of the Summer Jobs, Trade Adjustment Assistance (TAA) training, and Senior Community Service Employment programs; (4) failure to provide a national reserve to aid victims of mass layoffs and national disasters and for other purposes; and (5) creation of a complex new bureaucracy stemming from an unwieldy Federal governance structure.

Protecting the Vulnerable

Reduced spending for low-income programs is possible while still protecting the most vulnerable. The Administration has proposed \$38 billion in carefully tailored cuts for certain welfare programs over seven years; however, the magnitude of the cuts being considered by Congress -- between \$100 billion and \$120 billion over seven years -- compromises the ability of these programs to serve vulnerable low-income groups. This is exacerbated by the absence of maintenance-of-effort requirements on the States. It is not realistic to expect the States to make up for the reduced Federal spending from their own revenues. Many will ultimately pass on the drastic cuts to children and families, who will endure future cuts or even losses in benefit eligibility.

The Administration supports the retention of Supplemental Security Income (SSI) cash benefits for eligible children provided in the Republican leadership plan. The plan, however, would deny SSI benefits to more than 350,000 disabled children over the next five years. In addition, the bill would establish a mandatory five-year cut off of Temporary Assistance Benefits for Needy Families without regard to their circumstances. The bill would not provide any protection for children when their parents are unable to work due to illness, disability, the need to care for a disabled child, or high local unemployment. These provisions are unduly harsh and should be deleted from the bill.

Preserving the Health and Nutrition of Adults and Children

The Administration opposes the Republican leadership plan to include an optional Food Stamp block grant. By exercising this option, States would be able to divert Food Stamp funds for other purposes and could deny nutrition assistance to those most in need. In addition, any State that exercises such an option will see its food assistance decline dramatically in the event of recession or population growth.

In addition, the Administration is concerned about the severity of the cuts to the Food Stamp program in the Republican leadership bill. The Administration supports requiring Food Stamp recipients without children to go to work or train for work in return for their assistance. The Republican leadership bill does not provide States with the resources to accomplish this goal. Rather than promoting work, the plan simply cuts a hole in the nutrition safety net.

Provisions Affecting Non-Citizens

The Republican leadership plan should support fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility for those whom they encourage to enter the United States. The Administration, however, strongly opposes the Republican leadership bill's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the bill's application of deeming provisions to the Medicaid program.

Daschle-Breaux-Mikulski Reform Proposal--Real Welfare Reform

The Senate has the chance to enact real welfare reform. The Administration strongly supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Instead of maintaining the current welfare system -- which undermines our basic values of work, responsibility, and family -- this plan sends people to work so they can earn a paycheck, not a welfare check. Unlike the Republican leadership bill and the House-passed H.R. 4, this proposal provides the child care for those transitioning from welfare to work and for those trying avoid welfare in first place. It holds State bureaucracies accountable for real results, and rewards them for putting people to work, not just removing people from the welfare rolls. It saves money by moving people to work, not by expecting the States to handle more problems with less money. The Administration urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform.

Pay-As-You-Go Scoring

Senator Dole's proposal would reduce direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring estimate is under development.

* * * * *

WR - Senate SAP

EXECUTIVE OFFICE OF THE PRESIDENT

04-Aug-1995 06:53pm

TO: Janet R. Forsgren
 TO: Kenneth S. Apfel
 TO: Melissa Y. Cook

FROM: Bruce N. Reed
 Domestic Policy Council

SUBJECT: Comments on Welfare SAP

Good job on this deal -- it looks great.

I have a few minor edits:

p. 1, 2nd graph, 4th sentence: In item (2), change "limiting the duration on welfare for people..." to "limiting recipients' duration on welfare and cutting off people..."

p. 1, 2nd graph, last sentence: Change "enjoy" to "receive"

p. 1, 4th graph, 1st sentence: Change to opposes the Repub leadership bill "in its current form" because it falls short..

p. 1, 4th graph, 4th sentence ("Instead, ..."): Change to read "Instead, by allowing States to no longer contribute any of their own resources, the bill gives States an incentive to throw people off the welfare rolls rather than put them to work."

p. 1, 4th graph, 5th sentence ("It further") Change that sentence to read "It further undermines the goal of requiring work by shifting an enormous cost burden to State and local taxpayers, and by putting them at even greater risk during an economic downturn."

p. 2, 1st graph, sentence that begins "Finally, House and": Change "to serve the needy" to "to protect children and promote work"

p. 2, 1st bullet on MOE: In the first sentence, change "Provide incentives for States to maintain..." to "Require States to maintain..." In the 3rd sentence, change "avoid the investments needed to help people..." to "avoid the burden of helping people..."

p. 2, 2nd bullet, last sentence: change "child care that they need" to "child care when they do"

p. 3, 2nd bullet: The next to last sentence, "Such an outcome is

completely inadequate", strikes me as kind of wimpy and should be deleted.

p. 3, Training, 2nd graph: Ken, should we say one sentence on the point that this bill will allow governors to divert money that should go to train veteran workers into unproven and unrelated programs for people who don't work?

p. 4, "Protecting the Vulnerable": Title should be "Protecting Children". 2nd sentence should say "to protect children and promote work" instead of "to serve vulnerable low-income groups"

Add a sentence taking credit for food stamp fraud.

Great job -- thanks for everything.

My fax number is 362-0493. Home phone is P6/(b)(6)

August 7, 1995
(Senate)

S. 1120 - Work Opportunity Act of 1995
(Dole (R) KS and 31 cosponsors)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. The Administration, however, opposes S. 1120 in its current form because it falls short of the central goal of real welfare reform -- moving people from welfare to work.

Over the past two and a half years, the President has been fighting for the basic principles of work and responsibility. Last year, the President proposed a sweeping welfare reform package that would: establish tough work requirements while providing child care for working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children. His economic plan expanded the earned income tax credit, which rewarded work over welfare and cut taxes for 15 million working families.

Last February, the President issued an Executive Order to crack down on Federal employees who owe child support. The Administration also has approved welfare reform experiments in 32 States and has pledged fast-track approval for other State demonstrations that pursue specified reform strategies. Such strategies include: (1) strengthening work requirements backed with child care; (2) limiting recipients' duration on welfare and cutting off people who refuse to work; (3) making parents pay child support or go to work; (4) requiring mothers who are minors to live at home and stay in school; and (5) using welfare and Food Stamp benefits as subsidies for employers who hire welfare recipients. The President has also directed that Federal regulations be changed to ensure that welfare recipients who refuse to work do not receive increased Food Stamp benefits to offset the decreases made in their welfare checks.

The welfare reform debate has come a long way in certain key areas since this Congress first took up the issue. Not so long ago, some in Congress were promoting orphanages as the solution to out-of-wedlock teen births. Now, S. 1120 includes provisions from the President's proposal requiring mothers who are minors to live at home and stay in school. Earlier this year, some in Congress wanted to exclude child support enforcement from the welfare reform debate. Now, there is bipartisan agreement on the toughest child support enforcement proposal ever, and both the House-passed H.R. 4 and S. 1120 include the President's major child support enforcement provisions. In addition, S. 1120 adopts the Administration's position that child protection programs for abused children must be protected and includes an important provision from the President's welfare reform plan requiring welfare recipients to sign personal responsibility contracts as a condition of assistance.

The key to successful welfare reform is moving people from welfare to work. S. 1120, however, does not put work first. It does not provide the level of child care resources necessary to support the imposition of tough work requirements. Indeed, it repeals critical child care programs now serving 640,000 children. It does not provide incentives for States to promote work. Instead, by allowing States to no longer contribute any of their own resources, the bill gives States an incentive to throw people off the welfare rolls rather than put them to work. It further undermines the goal of requiring work by shifting an enormous cost burden to States and localities and putting them at even greater risk during an economic downturn. No safeguards are provided for children whose families lose assistance through no fault of their own. More families may have to make do with less food on the table, if States opt for a Food Stamp block grant and then spend Food Stamp block grant funds on other programs. Finally, House and Senate Republican plans cut low-income programs too deeply, compromising their ability to protect children and promote work. The Administration supports real reform that saves taxpayer dollars by promoting independence -- moving people off welfare rolls and into work -- not by simply sending the welfare problem to the States with more mandates and less money.

The Administration's most significant concerns are discussed below. As the Administration continues its review of S. 1120, it may identify other troublesome issues and will work with Congress to address those concerns as well.

Moving People from Welfare to Work

Welfare reform will succeed only if its central goal is work. Work has always been at the heart of the President's approach to welfare reform. Work has provided the foundation for the welfare reform waivers the Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and dozens of other States. If a welfare system is to provide work-based incentives for States and welfare recipients, adequate resources for child care, training, and work must be available. State bureaucracies have to be rewarded for getting people into the workforce or preparing them to enter the workforce -- not for cutting them from the rolls.

^{S. 1120}
Unlike the Daschle-Breaux-Mikulski substitute (S. 1117) which the Administration strongly supports, the Republican leadership bill would not end welfare as we know it by moving people from welfare to work. To promote work, the bill should be changed to:

- Require States to maintain their stake in moving people from welfare to work. S. 1120 would neither require nor encourage States to contribute resources to welfare reform. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the burden of helping people become self-sufficient. In sum, there is a real danger that States would "race to the bottom" to save State dollars or to deter migrants from other States.
- Provide child care to move people from welfare to work and to keep people from going on welfare in the first place. It makes no sense to deny child care to people trying to

leave welfare and to working people who are trying to stay off welfare. By aggregating funding for cash benefits, child care, and employment assistance into one block grant and cutting it across-the-board, S. 1120 provides no guarantee that States will put any money into child care and work programs that move people off welfare. The Administration recommends that the bill be modified to: (1) fund employment and child care for welfare recipients separately from cash benefits; and (2) ensure that people who can work, do so, and have the child care when they do.

- Provide incentives that reward States for putting more people to work, not for cutting them off. S. 1120 gives States an incentive to save money by throwing people off the rolls. To change the culture of welfare, the bill should be modified to reward success instead of the status quo. The Administration supports a performance bonus that would focus the welfare bureaucracy and recipients on the central goal of moving from welfare to work.
- Protect States and families in the event of economic downturn, so that welfare reform does not shift a huge burden onto State and local taxpayers, and States can afford to put people to work instead of putting poor families at risk. In contrast to current funding mechanisms, funding for temporary assistance to needy families under S. 1120 would not adjust adequately to cushion the impact of unemployment and economic stagnation. States in recession would encounter reduced revenues and increased caseloads. S. 1120 would provide a "rainy day" loan fund that would allow States to borrow additional money during economic downturns. In addition, extra funding would be available to States projected to have high population growth that meet certain criteria. There is no guarantee, however, that the finite amount that such States receive will be adequate. And if there is population growth in a majority of States, each will get a diminished share of the fixed dollars. The Administration recommends that the bill be changed to adjust for increases in unemployment and population.

Ken?

Training People for the Future

The training provisions in S. 1120 include the consolidation of approximately 90 training programs. Given the need to build a comprehensive workforce development system to serve all Americans and the concerns expressed below, the Administration believes it is inappropriate to consider these provisions in the context of welfare reform legislation. Of paramount concern is the bill's insufficient funding for the consolidated programs. While the President's FY 1996 budget proposes to increase funding for training by \$1 billion over FY 1995, S. 1120 would cut funding by 15 percent. Not only is the plan's funding insufficient for the Nation's workforce needs as a whole, the consolidation of these programs means that billions of dollars less will be available to help people stay off welfare and to help others transition from welfare to work.

In addition, S. 1120 would not ensure proper accountability for \$8.2 billion in Federal training and vocational education funds. If the bill were adopted, the Federal Government could not assure

taxpayers that States were spending Federal funds to achieve the national goals of improving workers' skills, facilitating individuals' transition from school to work, and helping severely disadvantaged people enter into the education and work mainstream.

Unlike the President's job training proposal, S. 1120 would not require the use of skill grants for adult training. Thus, there would be no guarantee that training resources would be put directly into the hands of dislocated workers and low-income adults, so that they could make informed training choices. Other concerns about S. 1120 include its: (1) failure to target resources on those most in need; (2) devolution of the successful Job Corps program to the States; (3) elimination of the Summer Jobs, Trade Adjustment Assistance (TAA and NAFTA-TAA) training, Employment Service, and Senior Community Service Employment programs; (4) failure to assure permanent local workforce development boards with authority for local decision-making; (5) failure to provide a national reserve to aid victims of mass layoffs and national disasters and for other purposes; and (6) creation of a complex new bureaucracy under the direction of a part-time board with uncertain accountability as the Federal governance structure.

In addition, the Administration supports the deletion of the provision in S. 1120 that modifies Davis-Bacon labor standards protections. Overall, Davis-Bacon reform is the appropriate avenue for addressing what changes should be made to Davis-Bacon requirements.

Protecting Children

Reduced spending for low-income programs is possible while still protecting the most vulnerable. The Administration has proposed \$38 billion in carefully tailored cuts for certain welfare programs over seven years; however, the magnitude of the cuts assumed in the congressional budget resolution -- approximately \$110 billion over seven years -- compromises the ability of these programs to protect children and promote work. This is exacerbated by the absence of maintenance-of-effort requirements on the States. It is not realistic to expect the States to compensate for the reduced Federal spending from their own revenues. Many will ultimately pass on the drastic cuts to children and families, who will endure future cuts or even losses in benefit eligibility. The proposal also eliminates benefits for approximately four million children even if their parents have done everything possible to find work.

The Administration supports the retention of Supplemental Security Income (SSI) cash benefits for eligible children provided by S. 1120. The plan, however, would apparently deny SSI benefits to more than 370,000 disabled children over the next five years. In addition, the bill would establish a mandatory five-year cut off of Temporary Assistance for Needy Families without regard to their circumstances. The bill would not provide any protection for children when their parents are unable to work due to illness, disability, the need to care for a disabled child, or high local unemployment. The Administration believes that such provisions are unduly harsh.

Preserving the Health and Nutrition of Adults and Children

The Administration is pleased that S. 1120 includes a number of provisions proposed by the Department of Agriculture to combat Food Stamp fraud. The Administration, however, opposes the Republican leadership plan to include an optional Food Stamp block grant. Providing the option of a Food Stamp block grant in its current form jeopardizes getting food to people who need it. It would sever the link between Food Stamps and nutrition; eliminate the program's economic responsiveness; end national eligibility and benefit standards; and ultimately divert support away from food. The bill requires only 75 percent of the block grant funds to go to food assistance, a provision that could divert \$23 billion worth of food from children and families over the next five years. Furthermore, any State that exercises the block grant option will see its food assistance decline dramatically in the event of recession or population growth. The block grant option would threaten the national nutritional framework that has successfully narrowed the gap between the diets of low-income and other families.

The Administration is concerned about the severity of the cuts to the Food Stamp program in S. 1120. The Administration supports requiring Food Stamp recipients without children to go to work or train for work in return for their assistance. S. 1120 does not provide States with the resources to accomplish this goal. Rather than promoting work, the plan simply cuts a hole in the nutrition safety net.

Provisions Affecting Non-Citizens

S. 1120 should support fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility for those whom they encourage to enter the United States. The Administration, however, strongly opposes the Republican leadership bill's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. ["Deeming" is the requirement that sponsors' income be counted when determining immigrants' eligibility for benefits.] The Administration also is deeply concerned about the bill's application of deeming provisions to Medicaid and other programs where deeming would adversely affect public health and welfare.

Daschle-Breaux-Mikulski Reform Proposal -- Real Welfare Reform

The Senate has the chance to enact ^{beneficial} real welfare reform. The Administration strongly supports S. 1117, the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Instead of maintaining the current welfare system -- which undermines our basic values of work, responsibility, and family -- this plan sends people to work so they can earn a paycheck, not a welfare check. Unlike S. 1120 and the House-passed H.R. 4, this proposal provides the child care for those transitioning from welfare to work and for those trying to avoid welfare in the first place. It holds State bureaucracies accountable for real results, and rewards them for putting people to work, not just removing people from the welfare rolls. It saves money by moving

people to work, not by expecting the States to handle more problems with less money. It allows these programs to respond automatically to recessions, population growth, inflation, and other demographic changes. The Administration urges Congress to agree on a bipartisan bill that addresses these critical elements of real welfare reform.

Pay-As-You-Go Scoring

S. 1120 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. The Office of Management and Budget's scoring estimate is currently under development.

EXECUTIVE OFFICE OF THE PRESIDENT

04-Aug-1995 11:50pm

TO: (See Below)

FROM: Janet R. Forsgren
Office of Mgmt and Budget, LRD

SUBJECT: Welfare Reform SAP

Because of the lateness of the hour, we have faxed the SAP both to you and the Director. Please make sure that it has been brought to her attention. The SAP (and this note) have already been faxed to Bruce Reed. You may want to consider whether Lydia should show the SAP to Harold Ickes, given the addition of the 2 Davis-Bacon sentences. (Jennifer O'Connor on his staff received the same version as the agencies for review. She did not respond.)

For easy reference: Bruce Reed's home fax is (202) 362-0493. His phone number is (202) 362-9595.

LYDIA: Please be sure to remind everyone -- particularly Emanuel Rahm -- that "below the stars" should not be distributed outside of EXOP.

Ken: A couple of other points for you to focus on:

(1) Per Chuck Konigsberg's suggestion, the "oppose S. 1120" sentence has been moved to the first paragraph. To accommodate this change, other sentences have been moved around, per guidance from Bruce Reed. I also made the other changes that Chuck suggested in his e-mail.

(2) In the first paragraph under "Training People for the Future", it states that S. 1120 would cut training funding by 15 percent. I don't know if that is correct given that we're now saying that S. 1120 provides \$8.2, not \$9.1, billion in training funds. Should the percentage be recalculated to be higher? Larry Matlack was gone by the time I focused on this. I don't know if he plans to be in the office on Saturday.

(3) Under "Moving People from Welfare to Work", Bruce suggested changing the first bullet to read "Require States to maintain..." rather than "Provide incentive for States to maintain..." I made the change, but you may want to change it back -- as I recall, you rejected the same change when HHS suggested it.

(4) Under the "Training People for the Future"; Bruce posed the question as to whether we should add a sentence on the point that the bill will allow governors to divert money that should go to train veteran workers into unproven and unrelated programs for people who don't work. I did not know how you felt about this, so didn't add anything.

(5) Larry Matlack and I called DOL to run the two Davis-Bacon sentences by them. You will note that we have made a slight change in the second sentence from: "Overall Davis-Bacon reform is the appropriate avenue to address this issue" to "Overall Davis-Bacon reform is the appropriate avenue for addressing what changes should be made to Davis-Bacon protections."

(6) Under "Protecting the Vulnerable" (Bruce changed it to "Protecting Children"): per Chris Ellertson and Lester Cash, the "between \$100 billion and \$120 billion" has been changed to "approximately \$110 billion".

(7) Given the addition of the Davis-Bacon language, you may want to consider whether Lydia should run the SAP by Harold Ickes. The version of the SAP that was sent to the agencies was also sent to Jennifer O'Connor on Ickes' staff. She did not respond.

Distribution:

TO: Kenneth S. Apfel

CC: Bruce N. Reed
CC: Charles S. Konigsberg
CC: Lydia Muniz
CC: Barry White
CC: Larry R. Matlack
CC: Keith J. Fontenot
CC: James C. Murr
CC: Melissa Y. Cook

DRAFT

August 4, 1995
(Senate)

S. 1120 - Republican Leadership Welfare Reform
(Dole (R) KS and 31 others)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that would: establish tough work requirements while providing child care for working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children.

Over the past two and a half years, the President has been fighting for these basic principles. His economic plan expanded the earned income tax credit, which rewarded work over welfare and cut taxes for 15 million working families. Last February, the President issued an Executive Order to crack down on Federal employees who owe child support. The Administration has already approved welfare reform experiments in 32 States, and has pledged fast-track approval for other State demonstrations that pursue specified reform strategies. Such strategies include: (1) strengthening work requirements backed with child care; (2) limiting ^{the number of} ~~the~~ duration on welfare for people who refuse to work; (3) making parents pay child support or go to work; (4) requiring mothers who are minors to live at home and stay in school, and (5) using welfare and food stamp benefits as subsidies for employers who hire welfare recipients. The President has also directed that Federal regulations be changed to ensure welfare recipients who refuse to work do not ^{and cutting off} enjoy increased Food Stamp benefits to offset the decreases made in their welfare checks. ^{receive}

The welfare reform debate has come a long way in certain key areas since this Congress first took up the issue. Not so long ago, some in Congress were promoting orphanages as the solution to illegitimacy. Now, the Republican leadership bill includes provisions from the President's proposal requiring mothers who are minors to live at home and stay in school. Earlier this year, some in Congress wanted to exclude child support enforcement from the welfare reform debate. Now, there is bipartisan agreement on the toughest possible child support enforcement, and both the House-passed H.R. 4 and the Republican leadership bill include the President's major child support enforcement provisions. In addition, the Republican leadership bill adopts the Administration's position that child protection programs for abused children must be protected, and includes an important provision from the President's welfare reform plan that welfare recipients must sign personal responsibility contracts as a condition of assistance.

The Administration, however, opposes the Republican leadership bill ^{in its current form} because it falls short of the central goal of real welfare reform -- moving people from welfare to work. It does not provide the level of child care resources necessary to support the imposition of tough work requirements. Similarly, it does not provide incentives for States to promote work. Instead, ^{gives} the bill encourages States to ^{on incentive from} remove people ^{all} from the welfare rolls by allowing States to ^{reversing} reduce the level of State welfare funding. It further undermines the goal of ^{stop} transitioning people from welfare to work by ^{shame} ^{at them} ^{to work.} ^{States do no longer contribute any of their own resources}

authorizing a block grant that would shift an enormous cost burden to ~~States and localities~~ ^{State and local taxpayers} and ~~place those entities at risk~~ ^{putting them at risk} during an economic downturn. Moreover, no safeguards are provided for children whose families lose assistance. More families may have to make do with less food on the table, if States spend Food Stamp block grant funds elsewhere. Finally, House and Senate Republican plans to date cut low-income programs too deeply, compromising their ability to ~~serve the needy~~ ^{promote work and independence}. The Administration supports real reform that saves taxpayer dollars by promoting independence -- moving people off welfare rolls and into work -- not by simply sending the welfare problem to the States with more mandates and less money.

The Administration's most significant concerns are discussed below. As the Administration continues its review of the Republican leadership bill, it may identify other troublesome issues and will work with Congress to address those concerns as well.

Moving People from Welfare to Work

Welfare reform will succeed only if its central goal is work. Work has always been at the heart of the President's approach to welfare reform. Work has provided the foundation for the welfare reform waivers the Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and dozens of other States. If a welfare system is to provide work-based incentives for States and welfare recipients, adequate resources for child care, training, and work must be available. State bureaucracies have to be rewarded for getting people into the workforce or preparing them to enter the workforce -- not for cutting them from the rolls.

Unlike the Daschle-Breaux-Mikulski substitute which the Administration strongly supports, the Republican leadership bill would not end welfare as we know it by moving people from welfare to work. The Republican leadership bill will not succeed in moving people from welfare to work. To promote work, the bill should be changed to:

- ^{Require} Provide incentives for States to maintain their stake in moving people from welfare to work. The Republican leadership bill would neither require nor encourage States to contribute resources to welfare reform. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the ^{burden of} investments needed to help people become self-sufficient. In sum, there is a real danger that States would "race to the bottom" to save State dollars or to deter migrants from other States.
- Provide child care to move people from welfare to work and to keep people from going on welfare in the first place. It makes no sense to deny child care to people trying to leave welfare and to working people who are trying to stay off welfare. By aggregating funding for cash benefits, child care, and employment assistance into one block grant, the Republican leadership bill provides no guarantee that States will put any money into child care and work programs that move people off welfare. The Administration recommends that the bill be modified to: (1) fund employment and child care separately from cash benefits; and (2) ensure that people who can work, do so, and have child care ^{that they need when they do.}

- Provide incentives that reward States for putting more people to work, not for cutting them off. The Republican leadership bill gives States an incentive to save money by throwing people off the rolls. To change the culture of welfare, the bill should be modified to reward success instead of the status quo. The Administration supports a performance bonus that would focus the welfare bureaucracy and recipients on the central goal of moving from welfare to work.
- Protect States and families in the event of economic downturn so that welfare reform does not shift a huge burden onto State and local taxpayers, and States can afford to put people to work instead of putting poor families at risk. In contrast to current funding mechanisms, funding for temporary assistance to needy families under the Republican leadership bill would not adjust adequately to cushion the impact of unemployment and economic stagnation. States in recession would encounter reduced revenues and increased caseloads. The Republican leadership bill would provide a "rainy day" loan fund that would allow States to borrow additional money during economic downturns. In addition, extra funding would be available to States projected to have high population growth that meet certain criteria. There is no guarantee, however, that the finite amount that such States receive will be adequate. And if there is population growth in a majority of States, each will get a diminished share of the fixed dollars. [Such an outcome is completely inadequate] The Administration recommends that the bill be changed to adjust for increases in unemployment and population.

Training People for the Future

The training provisions in the Republican leadership bill, including the consolidation of over 90 vocational training programs, would not adequately address the needs of people trying to transition from welfare to work. Of paramount concern is the bill's insufficient funding for the consolidated programs. While the President's FY 1996 budget proposes to increase funding for training by \$1 billion over FY 1995, the Republican leadership plan would cut funding by 15 percent. Not only is the plan's funding insufficient for the Nation's workforce needs as a whole, the consolidation of these programs would mean billions of dollars less would be available to help people stay off welfare and to help others transition from welfare to work.

Direct In addition, the Republican leadership bill would not ensure proper accountability for \$9.1 billion in Federal training and vocational education funds. If the bill were adopted, the Federal Government could not assure taxpayers that States were spending Federal funds to achieve the national goals of improving workers' skills, facilitating individuals' transition from school to work, and helping severely disadvantaged people return to the education and work mainstream.

Unlike the President's job training proposal, the Republican leadership bill would not require the use of skill grants for adult training. Thus, there would be no guarantee that training resources would be put directly into the hands of dislocated workers and low-income adults, so that they

could make informed training choices. Other concerns about the Republican leadership bill include its: (1) failure to target resources on the most disadvantaged; (2) devolution of the successful Job Corps program to the States; (3) elimination of the Summer Jobs, Trade Adjustment Assistance (TAA) training, and Senior Community Service Employment programs; (4) failure to provide a national reserve to aid victims of mass layoffs and national disasters and for other purposes; and (5) creation of a complex new bureaucracy stemming from an unwieldy Federal governance structure.

Protecting the ^{children} Vulnerable

Reduced spending for low-income programs is possible while still protecting the most vulnerable. The Administration has proposed \$38 billion in carefully tailored cuts for certain welfare programs over seven years; however, the magnitude of the cuts being considered by Congress -- between \$100 billion and \$120 billion over seven years -- compromises the ability of these programs to serve vulnerable low-income groups. This is exacerbated by the absence of maintenance-of-effort requirements on the States. It is not realistic to expect the States to make up for the reduced Federal spending from their own revenues. Many will ultimately pass on the drastic cuts to children and families, who will endure future cuts or even losses in benefit eligibility.

The Administration supports the retention of Supplemental Security Income (SSI) cash benefits for eligible children provided in the Republican leadership plan. The plan, however, would deny SSI benefits to more than 350,000 disabled children over the next five years. In addition, the bill would establish a mandatory five-year cut off of Temporary Assistance Benefits for Needy Families without regard to their circumstances. The bill would not provide any protection for children when their parents are unable to work due to illness, disability, the need to care for a disabled child, or high local unemployment. These provisions are unduly harsh and should be deleted from the bill.

Preserving the Health and Nutrition of Adults and Children

The Administration opposes the Republican leadership plan to include an optional Food Stamp block grant. By exercising this option, States would be able to divert Food Stamp funds for other purposes and could deny nutrition assistance to those most in need. In addition, any State that exercises such an option will see its food assistance decline dramatically in the event of recession or population growth.

In addition, the Administration is concerned about the severity of the cuts to the Food Stamp program in the Republican leadership bill. The Administration supports requiring Food Stamp recipients without children to go to work or train for work in return for their assistance. The Republican leadership bill does not provide States with the resources to accomplish this goal. Rather than promoting work, the plan simply cuts a hole in the nutrition safety net.

FRAUD

Provisions Affecting Non-Citizens

The Republican leadership plan should support fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility for those whom they encourage to enter the United States. The Administration, however, strongly opposes the Republican leadership bill's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the bill's application of deeming provisions to the Medicaid program.

Daschle-Breaux-Mikulski Reform Proposal--Real Welfare Reform

The Senate has the chance to enact real welfare reform. The Administration strongly supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Instead of maintaining the current welfare system -- which undermines our basic values of work, responsibility, and family -- this plan sends people to work so they can earn a paycheck, not a welfare check. Unlike the Republican leadership bill and the House-passed H.R. 4, this proposal provides the child care for those transitioning from welfare to work and for those trying avoid welfare in first place. It holds State bureaucracies accountable for real results, and rewards them for putting people to work, not just removing people from the welfare rolls. It saves money by moving people to work, not by expecting the States to handle more problems with less money. The Administration urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform.

Pay-As-You-Go Scoring

Senator Dole's proposal would reduce direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring estimate is under development.

WR-SAP
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bill)

TALKING POINTS ON JUSTICE ISSUES

DOJ's concerns fit into three categories. Some are founded on constitutional clashes with welfare reform provisions, particularly in the House version of H.R. 4. Others are technical drafting suggestions to make the legislation more logical. Still others have DOJ weighing in on policy issues, a function better handled via a Statement of Administration Policy. Sending the letter could be useful for the first two categories. Identifying unconstitutional provisions likely to be overturned by the courts could prevent lawmakers from enacting them. Similarly, suggesting technical drafting improvements couldn't hurt (although such suggestions may also be made informally). The following focuses mainly on the major constitutional concerns.

- *Benefit restrictions for minor moms*--A Supreme Court case, New Jersey Welfare Rights Org. v. Cahill, held that it was illegal to distinguish among children born in or out of wedlock when paying welfare benefits. Other case law establishes that States should not interfere with the constitutionally protected "freedom of personal choice in matters of marriage." H.R. 4's minor moms benefit restrictions (which, like Cahill, apply to children born out of wedlock) may run afoul of the Constitution for similar reasons.
- *Treatment of Interstate Immigrants Receiving Benefits*--H.R. 4 (both House and Senate) lets States pay lower benefits to families who recently moved from a lower benefit State. A quite similar law was overturned by the 1969 Shapiro v. Thompson decision, which had a one-year residency requirement for welfare benefits, because the law was held to penalize interstate travel. A number of recent lower court cases have affirmed this principle, and it is likely that H.R. 4's provision would be sued instantly if States opted to apply it.
- *Benefit Restrictions for Children Lacking Paternity Establishment*--H.R. 4 stipulates that States must reduce benefits to families by \$50 or 15% for children whose paternity has not been established. Although States already may cut assistance for families who don't cooperate in establishing paternity, H.R. 4's provision goes a step further because it requires sanctions even if the family has cooperated fully with the State. DOJ makes a plausible case that the provision could be challenged as "irrational" since a family could be penalized for circumstances beyond its control.
- *Funding for Lowered Illegitimacy & Benefits for Immigrants*--DOJ argues that H.R. 4's monetary rewards to States for drops in abortion is "illogical" and may give States incentives to restrict women's constitutionally protected freedom of choice. These are more opinions than constitutional concerns and are better addressed by another Administration mouthpiece. The same holds true for DOJ's opposition to increased restrictions on immigrants' benefits, since there are currently many Federal benefit restrictions on immigrants that long have gone unchallenged.



U. S. Department of Justice

Office of Legislative Affairs

WR-SAP
(Senate bill)

Office of the Assistant Attorney General

Washington, D.C. 20530

DRAFT 4/12/95

Dear Mr. :

unofficial

The Department of Justice is pleased to offer the following comments on H.R. 4, the Personal Responsibility Act of 1995, as passed by the House of Representatives. As the comments indicate, the Department has several concerns regarding the provisions of H.R. 4.

1. "No Assistance for Out-of-Wedlock Births to Minors"¹

Section 101 of the bill, amending section 405(a)(4) of the Social Security Act, would exclude from eligibility for benefits both mothers under age 18 and children born out-of-wedlock to mothers under age 18. No cash benefits may be provided until the mothers reach age 18.

We have serious constitutional concerns regarding the provision's discrimination on the basis of illegitimacy. On its face, the provision distinguishes among equally needy children based on the conduct of those children's parents. The Supreme Court has held already that for purposes of distributing welfare benefits, "as indispensable to the health and well-being of illegitimate children as to those who are legitimate," such distinctions violate the Equal Protection Clause. See New Jersey Welfare Rights Org. v. Cahill, 411 U.S. 619, 621 (1973) (per curiam). Specifically, the Court in Cahill rejected the means chosen by the state to advance its interest in "preserv[ing] and strengthen[ing] family life":

[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 wrong-doing. 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.

¹ For ease of reference, we will refer here to the bill's provisions by the titles used in the bill itself.

Cahill, 411 U.S. at 620 (quoting Weber v. Aetna Casualty & Surety Co., 406 U.S. 164, 175 (1972); see also Trumble v. Gordon, 430 U.S. 762, 769 (1977) ("we have expressly considered and rejected the argument that a State may attempt to influence the actions of men and women by imposing sanctions on the children born of their illegitimate relationships"). We think that this reasoning would likely compel invalidation of the provision in question.

The provision also might be challenged by affected mothers on the grounds that it conditions their eligibility for benefits on marital status, and hence interferes with the constitutionally protected "freedom of personal choice in matters of marriage and family life." Cleveland Bd. of Educ. v. LaFleur, 414 U.S. 632, 639 (1974). The Supreme Court has recognized a fundamental right to marry and otherwise to order family relationships, and invalidated under strict scrutiny regulations that interfere "directly and substantially" with that right. See Zablocki v. Redhail, 434 U.S. 374, 385-87 (1978) (state may not require court approval for marriage by person with support obligations); see also Boddie v. Connecticut, 401 U.S. 371 (1971) (state may not condition access to court in divorce action on payment of filing fees). At the same time, the Court has held that benefits classifications that bear only indirectly on intimate relationships may be sustained so long as they are rational. See, e.g., Califano v. Jobat, 434 U.S. 47 (1977) (Congress may terminate benefits when recipient marries); see also Zablocki, 434 U.S. at 386-87 & n.12 (discussing distinction).

Our concern is that where, as here, a benefits classification appears actually to be intended to influence the decision whether to marry, a reviewing court might treat it as an impermissible "direct and substantial" interference with that decision. Cf. Jobat, 434 U.S. at 54 (upholding marriage rule because it "cannot be criticized . . . as an attempt to interfere with the individual's freedom to make a decision as important as marriage"); Bowen v. Gilliard, 483 U.S. 587, 602 (1987) (upholding AFDC family filing unit requirement because its "design" is not to intrude on family living arrangements). Alternatively, because the condition of eligibility at issue -- marriage -- is not wholly within the power of the mother to fulfill, the very rationality of the provision might be open to question.

2. "Illegitimacy Ratio"

Section 101 of the bill, amending Section 403 of the Social Security Act, provides incentives by increasing grants payable to states if the states achieve reductions in the "illegitimacy ratio." The ratio would be calculated by adding the total number of out-of-wedlock births in the state to a figure representing the increase in the annual number of abortions, then dividing that sum by the total number of births in the state. Our

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concerns our twofold. First, the equation proposed is illogical in that it tries to link-abortion-figures and grants to states; these two issues are not related. Second, it may serve as an incentive to states to restrict or allow others to interfere with a woman's constitutionally protected freedom of choice.

3. "Authority to Treat Interstate Immigrants Under Rules of Former State"

Section 101 of the bill, amending section 403(c) (2) of the Social Security Act, would authorize the states to discriminate among beneficiaries based on length of in-state residence. Specifically, the Act would allow each state to provide families that have lived in the state for less than one year with the level of benefits, if any, the families would have received in their prior states of residence.

The Supreme Court has held that a state impermissibly penalizes 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) (one-year residency requirement for welfare benefits; same result). This is so even if the state acts, as it would here, pursuant to congressional statute. 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 solely 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).

Not clear

Recent lower court cases have relied on both these theories to invalidate laws that, like those contemplated by the bill, limit new state residents to the level of welfare benefits they received in their prior home states for a substantial period of time. See Mitchell v. Steffen, 504 N.W.2d 198 (Minn. 1993), cert. denied, 114 S. Ct. 902 (1994) (six-month residency requirement); Green v. Anderson, 811 F. Supp. 516 (E.D. Cal. 1993), aff'd, 26 F.3d 95 (9th Cir. 1994) (one-year residency requirement). The Supreme Court granted certiorari in Green, but recently directed vacation of the prior judgments in the case on procedural grounds without reaching the merits. Anderson v. Green, 63 U.S.L.W. 4162 (U.S. Feb. 23, 1995) (per curiam). Unless and until the Supreme Court revisits this issue, controlling case law renders state laws passed pursuant to this provision of the bill unconstitutional.

4. "Withholding of Portion of Assistance for Families Which Include a Child Whose Paternity is Not Established"

Current law requires that a mother applying for welfare benefits cooperate in establishing the paternity of her child. Section 101 of the bill, while maintaining the cooperation requirement, will also require states to impose financial penalties on families receiving assistance if paternity has not in fact been established.

Congress is free, of course, to impose conditions on receipt of welfare benefits, so long as the classifications created are rationally related to legitimate government ends. See Dandridge v. Williams, 397 U.S. 471 (1970) (upholding upper limit on AFDC benefits under rational basis review). Presumably, the state interest in imposing the new penalty contemplated by the bill is to provide an incentive for families to aid in establishing paternity. The penalty will apply, however, even when a mother has done all within her control to establish paternity, and the failure to make a final determination is attributable solely to the action (or nonaction) of the father or the state itself. While Congress need not classify in the welfare context with "mathematical nicety," id. at 485, a penalty that is likely to operate unfairly in many cases, and seems to be redundant in light of the preexisting cooperation requirement, may be subject to challenge on the grounds that it is irrational.

5. "No Assistance for Certain Aliens," "Ineligibility of Nonimmigrants for Certain Public Benefits Programs," and "Limited Eligibility of Immigrants for 5 Specified Federal Public Benefits Programs"

The bill would exclude legal as well as illegal aliens from a broad range of federal benefits programs. Specifically, section 101 of the bill bars the use of Family Assistance Block Grant funds to provide cash benefits to legal aliens, except as otherwise provided by the bill. Section 403 of the bill excludes nearly all legal immigrants from eligibility under the Family Assistance Block Grant program and also under the SSI, Title XX block grant, non-emergency Medicaid, and Food Stamps programs.² Finally, section 402 denies all federal means-tested public benefits to lawfully present nonimmigrants, with narrow exceptions.

² Excepted from the bar on assistance are refugees for the first five years after their arrival, certain disabled and aged aliens, and veterans and current members of the Armed Forces.

Congress, of course, enjoys substantial authority to classify on the basis of alienage and, specifically, to limit the eligibility of aliens for benefits under federal programs. Mathews v. Diaz, 426 U.S. 67 (1976). Such classifications, however, remain subject to rational basis review, id., and Congress should be prepared to articulate a rational basis for each of the alien exclusions contemplated by the bill. In at least some cases, it may prove difficult to justify the bill's broad-based exclusionary policy as applied to legal immigrants. Denying benefits to nearly all legal immigrants, many of whom have participated productively in the United States economy for years before requiring assistance, is not self-evidently rational and, in our view, would contribute to the establishment of an objectionable caste system.

In addition, to the extent that the affected programs provide benefits on a family-wide, rather than individual, basis, the alien exclusion might operate to disadvantage United States citizens who are married or born to aliens. A citizen child, for instance, might effectively be denied benefits she would otherwise receive if an alien parent or sibling was excluded from the family unit in calculating need. Because such citizen children, like children born out-of-wedlock, are neither responsible for nor able to control the alien status of their parents, a reviewing court could find that alien exclusions so applied violate the Equal Protection Clause. Cf. Barcos v. Woods, 35 Cal.3d 871, 675 P.2d 458 (1984) (en banc) (AFDC exclusion of alien children violates California equal protection clause because it penalizes citizen siblings of such children).

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Eliminating access of virtually all noncitizens should be reviewed in terms of the overall impact. While monetary savings may appear to be significant, other costs, including the social costs, of restricting access to persons we have invited to this country also should be considered. We believe that significant savings can be achieved by retaining eligibility for long-term lawful alien residents of the United States, while tightening eligibility standards for the programs where use by aliens is significant and holding sponsors legally liable for supporting family members they bring to the United States. Moreover, we believe that preventing illegal entry at the border and stronger worksite enforcement, coupled with less restricted limited access to benefits and services, will provide a coordinated deterrence against illegal entry, stay, and use of public resources.

6. "Removal of Barriers to Interethnic Adoptions"

Section 201 of the bill adding section 430 to the Social Security Act, would remove barriers to interethnic adoption. We are concerned that this section might be interpreted to repeal by implication the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901-1963.

The ICWA was enacted in response to "[t]he wholesale separation of Indian children from their families" through termination of parental rights of American Indians. H.R. Rep. No. 1386, 95th Cong., 2d Sess. 9 (1978), reprinted in 1978 U.S.C.C.A.N. 7530, 7531. In response to this concern, Congress enacted the ICWA "to promote the security of Indian tribes and families." 25 U.S.C. 1902; see also Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 34, 36 (1989) (ICWA sought to protect the rights of Indian communities and tribes). The justification for ICWA, therefore, rests upon the unique, government-to-government relationship between the federal government and the federally-recognized Indian tribes. Morton v. Mancari, 417 U.S. 535 (1974) (Because of the unique relationship between federally-recognized tribes and the federal government -- as reflected in the Indian Commerce Clause, U.S. Constitution, art. I, § 8, cl. 3 -- statutes giving preferences to Indian tribes are not constitutionally suspect.) To avoid what we think is an unintended consequence of the broad language in section 430(b)(1), we recommend that ICWA be excepted from section 201 of H.R. 1214. ✓

7. "Clearinghouse and Hotline on Missing and Runaway Children"

Section 201 of the bill, amending section 426 of the Social Security Act to create, under the Attorney General, a clearinghouse and hotline for the collection and dissemination of information on children who have run away or are otherwise missing. Section 201 however, must be read in conjunction with H.R. 4's Section 371(e) of the bill which repeals the Missing Children's Assistance Act of 1992 (42 U.S.C. 5771-5779). The Department strongly opposes the repeal of the Act.

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The hotline and clearinghouse functions authorized under Section 201, are already performed (among many other activities) by the National Center for Missing and Exploited Children (NCMEC). NCMEC is one of several components funded under the Department's Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Missing and Exploited Children's Program, which is authorized under the Missing Children's Assistance Act. The Section 201 hotline and clearinghouse authority is not a substitute for the programs and services (including those of NCMEC) provided under the authorities of the Missing Children's Assistance Act. As noted above, among NCMEC's services is the provision of a national toll-free hotline and information network for the exchange of data on missing children.

Since the passage of the Missing Children's Assistance Act, the FBI's National Criminal Information Center reports an increase of more than 50 percent in the number of missing persons reports to law enforcement. This reporting increase is due, in large part, to the work of NCMEC and OJJDP.

Section 202(g) of H.R. 4 would repeal Subtitle C of Title XVII of the Violent Crime Control and Law Enforcement Act of 1994. This repeal should be read in the context of the repeal of the Missing Children's Assistance Act. Subtitle C created the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act". This provision increased state and local coordination for programs under the National Center for Missing and Exploited Children (NCMEC). The Department objects to its repeal.

8. "Child Protection Block Grant Program" - "Conforming Amendments"

The Department strongly objects to Section 371(g) of the bill which would repeal subtitle A of Title II of the Crime Control Act of 1990, the Victims of Child Abuse Act of 1990. This subtitle authorizes support for local and regional child advocacy centers, promoting the use of multidisciplinary teams to address the identification, support through judicial proceeding and treatment of children who have been subject to physical and sexual abuse. It also provides support for the investigation and prosecution of their cases.

Similarly, Subtitle A of Title II authorizes support for the National Center for the Prosecution of Child Abuse. The Department believes that the preservation of the Center is crucial and that a substitute block grant program would neither provide nor facilitate the training and technical assistance needed by local prosecutors to ensure that offenders are brought to justice. Given the seriousness and prevalence of child abuse cases, it is critical to maintain federal leadership and assistance to state and local prosecutors in this area.

9. "Amendments to Laws Relating to Child Protection Block Grant"

Section 371(b)(2) of the bill makes several changes to the Victims of Crime Act of 1984 (VOCA) (42 U.S.C. 10601 et seq.). The Department objects to each of these changes.

The Department notes that the earlier version of the bill, as considered by the House of Representatives, included in this section the repeal of Section 1404(a) of the VOCA. This provision repealed the entire Victims Assistance Program which is administered by the Department's Office for Victims of Crime (OVC). It was subsequently explained by the bill's drafters that the repeal of this section was a drafting error and that the section repealed should have been Section 1404(A). This particular correction has been made, although the Department objects to the repeal of Section 1411(A) as well. However, H.R. 4, as passed by the House, although not repealing VOCA Section 1404(a), nevertheless would and the Victims Assistance Program because it would repeal the funding for the Section 1404(a)

victim assistance program. Therefore, the result would be the same. The funding repeal is set forth in Section 371(b)(2)(A)(i)(aa) of the bill. This Section would remove the available of monies from the Crime Victims Fund to support Section 1404(a), thereby crippling the program. The Department continues to object to these actions because the Crime Victims Assistance Program, which is a block grant program administered by the various states, is one of the few available sources of funds to nearly 3,000 locally based victim assistance programs throughout the country.

Section 371(b)(2) also would repeal both the funding (VOCA Section 1402(d)(2)) and the authorization (VOCA Section 1404(A)) for the Children's Justice Act Program for Native Americans. This program is the only source of Federal funding to improve the investigation and prosecution of child abuse cases in Indian Country. This particular program has funded more than 35 different tribal programs to reduce trauma to child sexual abuse victims and to improve and coordinate service delivery to child abuse victims and their families.

10. "Title VII - Child Support"

Title VII of H.R. 4 contains many provisions that would simplify and streamline the collection of child support. For example, the bill would require states to establish databases that will compile information about each child support order opened in that state. Sec. 711. This information would be sent to a national registry on a regular basis, to aid in enforcement of interstate cases. In addition, to simplify employer procedures for withholding child support from income, the bill would require that each state establish a centralized state collection and disbursement unit, to ensure efficient, timely processing of child support collection and disbursement to custodial parents. Sec. 712.

The bill also would expand the federal parent locator system which would enable states to track quickly the location of debtor parents to enforce child support orders. The expanded locator system would have three major components: a Databank of Child Support Orders; a Directory of New Hires; and an expanded locator component that would allow states to access federal, state and local information to enforce child support orders. Sec. 716. Information such as the obligor's location would be advantageous, but we question whether the carte blanche access provided here is appropriate. Sec. 725.]

We note that the bill has been strengthened by requiring states to develop procedures for withholding, suspending, or restricting the use of drivers licenses. We hope that the Senate will adopt similar measures and we look forward to working with staff to discuss other options to strengthen the measures

contained in H.R. 4.

11. "Criminal Forfeiture"

Section 576 of the bill would add a new section 15(h) of the Food Stamp Act of 1977 (7 U.S.C. § 2024(h)) to expand the scope of criminal forfeiture under that Act. This is acceptable. (We note, however, that the bill does not include procedural provisions necessary to govern criminal forfeitures. See, e.g., 21 U.S.C. § 853.) The bill also attempts to establish a revised scheme for the disposition and use of the property forfeited under this new authority. See proposed 7 U.S.C. § 2024(h)(4). This provision would create several problems, conflict with existing law, and should be deleted.

Specifically, this provision would return the proceeds of forfeiture cases to the agency that investigated the case. The apparent theory is that the potential availability of these monies would result in more investigations being conducted. This is an unrealistic expectation. Resources are scarce for general investigative use. Moreover, the scheme envisioned by the bill for reimbursement of investigative expenses is unworkable. Whether or not a forfeiture results will almost never be known until a fiscal year following the year in which the expenses are incurred. Thus, whether last year's investigation will be reimbursed will generally be unknown at the time budget authority for the upcoming year is being sought. On the other hand, if the Congress relies on forfeitures as a source of monies for investigative activity, it is unlikely scarce appropriations will be committed to this need.

Further, the proposal does not replace, but modifies, authorized dispositions of assets forfeited in a special class of cases. Two of the four proposed dispositions (reimbursing State law enforcement for investigative expenses and permitting the Secretary of Agriculture to fund approval, reauthorization, and compliance activities) are inconsistent with the existing Assets Forfeiture Fund statute. In addition to creating additional costs, this proposal would create conflicts over what funds are available. The proposal would create new administrative burdens for the Assets Forfeiture Fund and has the potential for the creation of a needless inter-department conflict. Proposed 7 U.S.C. § 2024(h)(4) should be deleted.

Finally, we note that section 576 does not provide for civil forfeitures. By so doing, the bill would require, needlessly in our view, a criminal indictment and conviction whenever forfeiture is sought for a Food Stamp Act violation.

12. "Limitation on Federal Authority"

In two places, the bill would limit federal authority by providing that

The Secretary may not regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.³

The reach of these provisions is unclear. Our assumption is that they are intended to prevent the Secretary from promulgating substantive regulations that govern the disposition of the particular block grant funds at issue in each affected title. Our concern, however, is that the provisions might also be read to extend to the Secretary's enforcement of other global statutes and regulations applicable to all federal funding programs.

For instance, the provisions could be construed to prohibit the Secretary from applying to the states' management of their block grants the provisions of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., Title IX of the Education Amendments Act of 1974, as amended, 20 U.S.C. § 1681 et seq.; and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794. Broadly read, the provisions also would prevent the Secretary from instituting program fraud civil remedies actions against states under the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, which provides administrative remedies for false claims and statements in connection with the receipt of federal funds. Even the Secretary's referral of a matter to the Department of Justice for prosecution or civil action might be barred by the provisions.

To avoid what we think is an unintended consequence, the provisions might be drafted more narrowly to provide that "the Secretary is not authorized by this Act to regulate" Such a provision would make clear that the Secretary may not attach additional conditions to use of the block grants in question, without inadvertently stripping the Secretary of authority to enforce preexisting statutory mandates.

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13. Technical Comments

Finally, we would like to offer a few technical comments on the bill as currently drafted.

³ Section 101 (amending Social Security Act section 403(f)). The language of the second provision, in section 201 (amending Social Security Act section 423(f)) of the bill, is substantially similar.

Section 713 of the bill creates a new section 453A, which refers in paragraph (a)(1) to "information supplied in accordance with subsection (b) by employers and labor organizations" (emphasis added), and goes on in paragraph (a)(2) to define "labor organization." Neither subsection (b) nor any other part of section 713, however, makes any provision for reporting of information by labor organizations, and there is no further mention of any such reporting. Accordingly, we recommend deletion of the references to labor organizations in paragraphs (a)(1) and (2).

Section 721 of the bill requires each state to adopt the Uniform Interstate Family Support Act, which in turn establishes a comprehensive and complex system governing interstate support proceedings and enforcement. Section 722 of the bill substantially amends legislation enacted last fall, also governing interstate enforcement of support orders. Though we have not examined these two provisions in depth, we are concerned that they may be duplicative or, at worst, inconsistent.

Section 791(c) establishes a "grace period" for states "unable to [] comply" with the requirements of Title VII "without amending the State constitution." It is our view that state constitutional provisions generally could not prevent compliance with Title VII, in that state provisions inconsistent with Title VII would be void under the Supremacy Clause in states receiving federal funds. See, e.g., Townsend v. Swank, 404 U.S. 282 (1971) (state law violates Supremacy Clause by imposing AFDC restrictions inconsistent with federal standards). We therefore recommend drafting section 791(c) to achieve what appears to be its purpose without suggesting that state law can take precedence over federal standards:

If a State constitution is inconsistent with any provision of this title, then the State shall not be found out of compliance with any requirement enacted by this title until the earlier of--

(1) 1 year after the effective date of a State constitutional amendment achieving consistency with this title; or

(2) 5 years after the date of the enactment of this title.

We hope that these comments are helpful and we would be pleased to respond to any questions about them. Thank you for providing this opportunity to comment on H.R. 4, as passed by the House. The Office of Management and Budget has advised that there is no objection to this report from the standpoint of the Administration's program.

Sincerely,

Kent Markus
Acting Assistant Attorney General

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

LRM NO: 1515

FILE NO: 15

6/1/95

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 14

TO: Legislative Liaison Officer - See Distribution below:
FROM: Janet FORSGREN (for) *Janet L. Forsgren*
Assistant Director for Legislative Reference
OMB CONTACT: Chris MUSTAIN 395-3923
Legislative Assistant's line (for simple responses): 395-7382
SUBJECT: JUSTICE Proposed Report RE: HR4, Personal Responsibility Act of 1995

*WR-SAP
(Senate bill)*

DEADLINE: 1:00 pm Tuesday, June 06, 1995

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: NOTE: DOJ IS REQUESTING CLEARANCE TO SHARE THEIR CONCERNS INFORMALLY WITH THE HILL. THE ATTACHED REPORT EXPLAINS DOJ'S CONCERNS, BUT THE REPORT WILL NOT BE FORMALLY TRANSMITTED. *

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**RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM**

**LRM NO: 1515
FILE NO: 15**

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line), to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN 395-3923
Office of Management and Budget
Fax Number: 395-8148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: JUSTICE Proposed Report RE: HR4, Personal Responsibility Act of 1995

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DRAFT 4/12/95

Dear Mr. :

The Department of Justice is pleased to offer the following comments on H.R. 4, the Personal Responsibility Act of 1995, as passed by the House of Representatives. As the comments indicate, the Department has several concerns regarding the provisions of H.R. 4.

1. "No Assistance for Out-of-Wedlock Births to Minors"¹

Section 101 of the bill, amending section 405(a)(4) of the Social Security Act, would exclude from eligibility for benefits both mothers under age 18 and children born out-of-wedlock to mothers under age 18. No cash benefits may be provided until the mothers reach age 18.

We have serious constitutional concerns regarding the provision's discrimination on the basis of illegitimacy. On its face, the provision distinguishes among equally needy children based on the conduct of those children's parents. The Supreme Court has held already that for purposes of distributing welfare benefits, "as indispensable to the health and well-being of illegitimate children as to those who are legitimate," such distinctions violate the Equal Protection Clause. See New Jersey Welfare Rights Org. v. Cahill, 411 U.S. 619, 621 (1973) (per curiam). Specifically, the Court in Cahill rejected the means chosen by the state to advance its interest in "preserv[ing] and strengthen[ing] family life":

(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 wrong-doing. 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.

¹ For ease of reference, we will refer here to the bill's provisions by the titles used in the bill itself.

Cahill, 411 U.S. at 620 (quoting Weber v. Aetna Casualty & Surety Co., 406 U.S. 164, 175 (1972); see also Trimble v. Gordon, 430 U.S. 762, 769 (1977) ("we have expressly considered and rejected the argument that a State may attempt to influence the actions of men and women by imposing sanctions on the children born of their illegitimate relationships"). We think that this reasoning would likely compel invalidation of the provision in question.

The provision also might be challenged by affected mothers on the grounds that it conditions their eligibility for benefits on marital status, and hence interferes with the constitutionally protected "freedom of personal choice in matters of marriage and family life." Cleveland Bd. of Educ. v. LaFleur, 414 U.S. 632, 639 (1974). The Supreme Court has recognized a fundamental right to marry and otherwise to order family relationships, and invalidated under strict scrutiny regulations that interfere "directly and substantially" with that right. See Zablocki v. Redhail, 434 U.S. 374, 385-87 (1978) (state may not require court approval for marriage by person with support obligations); see also Boddie v. Connecticut, 401 U.S. 371 (1971) (state may not condition access to court in divorce action on payment of filing fees). At the same time, the Court has held that benefits classifications that bear only indirectly on intimate relationships may be sustained so long as they are rational. See, e.g., Califano v. Jobst, 434 U.S. 47 (1977) (Congress may terminate benefits when recipient marries); see also Zablocki, 434 U.S. at 386-87 & n.12 (discussing distinction).

Our concern is that where, as here, a benefits classification appears actually to be intended to influence the decision whether to marry, a reviewing court might treat it as an impermissible "direct and substantial" interference with that decision. Cf. Jobst, 434 U.S. at 54 (upholding marriage rule because it "cannot be criticized . . . as an attempt to interfere with the individual's freedom to make a decision as important as marriage"); Bowen v. Gilliard, 483 U.S. 587, 602 (1987) (upholding AFDC family filing unit requirement because its "design" is not to intrude on family living arrangements). Alternatively, because the condition of eligibility at issue -- marriage -- is not wholly within the power of the mother to fulfill, the very rationality of the provision might be open to question.

2. "Illegitimacy Ratio"

Section 101 of the bill, amending Section 403 of the Social Security Act, provides incentives by increasing grants payable to states if the states achieve reductions in the "illegitimacy ratio." The ratio would be calculated by adding the total number of out-of-wedlock births in the state to a figure representing the increase in the annual number of abortions, then dividing that sum by the total number of births in the state. Our

concerns our twofold. First, the equation proposed is illogical in that it tries to link abortion figures and grants to states; these two issues are not related. Second, it may serve as an incentive to states to restrict or allow others to interfere with a woman's constitutionally protected freedom of choice.

3. "Authority to Treat Interstate Immigrants Under Rules of Former State"

Section 101 of the bill, amending section 403(c)(2) of the Social Security Act, would authorize the states to discriminate among beneficiaries based on length of in-state residence. Specifically, the Act would allow each state to provide families that have lived in the state for less than one year with the level of benefits, if any, the families would have received in their prior states of residence.

The Supreme Court has held that a state impermissibly penalizes 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) (one-year residency requirement for welfare benefits; same result). This is so even if the state acts, as it would here, pursuant to congressional statute. 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 solely 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).

Recent lower court cases have relied on both these theories to invalidate laws that, like those contemplated by the bill, limit new state residents to the level of welfare benefits they received in their prior home states for a substantial period of time. See Mitchell v. Steffen, 504 N.W.2d 198 (Minn. 1993), cert. denied, 114 S. Ct. 902 (1994) (six-month residency requirement); Green v. Anderson, 811 F. Supp. 516 (E.D. Cal. 1993), aff'd, 26 F.3d 95 (9th Cir. 1994) (one-year residency requirement). The Supreme Court granted certiorari in Green, but recently directed vacation of the prior judgments in the case on procedural grounds without reaching the merits. Anderson v. Green, 63 U.S.L.W. 4162 (U.S. Feb. 22, 1995) (per curiam). Unless and until the Supreme Court revisits this issue, controlling case law renders state laws passed pursuant to this provision of the bill unconstitutional.

4. "Withholding of Portion of Assistance for Families Which Include a Child Whose Paternity is Not Established"

Current law requires that a mother applying for welfare benefits cooperate in establishing the paternity of her child. Section 101 of the bill, while maintaining the cooperation requirement, will also require states to impose financial penalties on families receiving assistance if paternity has not in fact been established.

Congress is free, of course, to impose conditions on receipt of welfare benefits, so long as the classifications created are rationally related to legitimate government ends. See Dandridge v. Williams, 397 U.S. 471 (1970) (upholding upper limit on AFDC benefits under rational basis review). Presumably, the state interest in imposing the new penalty contemplated by the bill is to provide an incentive for families to aid in establishing paternity. The penalty will apply, however, even when a mother has done all within her control to establish paternity, and the failure to make a final determination is attributable solely to the action (or nonaction) of the father or the state itself. While Congress need not classify in the welfare context with "mathematical nicety," id. at 485, a penalty that is likely to operate unfairly in many cases, and seems to be redundant in light of the preexisting cooperation requirement, may be subject to challenge on the grounds that it is irrational.

5. "No Assistance for Certain Aliens," "Ineligibility of Nonimmigrants for Certain Public Benefits Programs," and "Limited Eligibility of Immigrants for 5 Specified Federal Public Benefits Programs"

The bill would exclude legal as well as illegal aliens from a broad range of federal benefits programs. Specifically, section 101 of the bill bars the use of Family Assistance Block Grant funds to provide cash benefits to legal aliens, except as otherwise provided by the bill. Section 403 of the bill excludes nearly all legal immigrants from eligibility under the Family Assistance Block Grant program and also under the SSI, Title XX block grant, non-emergency Medicaid, and Food Stamps programs.² Finally, section 402 denies all federal means-tested public benefits to lawfully present nonimmigrants, with narrow exceptions.

² Excepted from the bar on assistance are refugees for the first five years after their arrival, certain disabled and aged aliens, and veterans and current members of the Armed Forces.

Congress, of course, enjoys substantial authority to classify on the basis of alienage and, specifically, to limit the eligibility of aliens for benefits under federal programs. Mathews v. Diaz, 426 U.S. 67 (1976). Such classifications, however, remain subject to rational basis review, id., and Congress should be prepared to articulate a rational basis for each of the alien exclusions contemplated by the bill. In at least some cases, it may prove difficult to justify the bill's broad-based exclusionary policy as applied to legal immigrants. Denying benefits to nearly all legal immigrants, many of whom have participated productively in the United States economy for years before requiring assistance, is not self-evidently rational and, in our view, would contribute to the establishment of an objectionable caste system.

In addition, to the extent that the affected programs provide benefits on a family-wide, rather than individual, basis, the alien exclusion might operate to disadvantage United States citizens who are married or born to aliens. A citizen child, for instance, might effectively be denied benefits she would otherwise receive if an alien parent or sibling was excluded from the family unit in calculating need. Because such citizen children, like children born out-of-wedlock, are neither responsible for nor able to control the alien status of their parents, a reviewing court could find that alien exclusions so applied violate the Equal Protection Clause. Cf. Darces v. Woods, 35 Cal.3d 871, 679 P.2d 458 (1984) (en banc) (AFDC exclusion of alien children violates California equal protection clause because it penalizes citizen siblings of such children).

Eliminating access of virtually all noncitizens should be reviewed in terms of the overall impact. While monetary savings may appear to be significant, other costs, including the social costs, of restricting access to persons we have invited to this country also should be considered. We believe that significant savings can be achieved by retaining eligibility for long-term lawful alien residents of the United States, while tightening eligibility standards for the programs where use by aliens is significant and holding sponsors legally liable for supporting family members they bring to the United States. Moreover, we believe that preventing illegal entry at the border and stronger worksite enforcement, coupled with less restricted limited access to benefits and services, will provide a coordinated deterrence against illegal entry, stay, and use of public resources.

6. "Removal of Barriers to Interethnic Adoptions"

Section 201 of the bill adding section 430 to the Social Security Act, would remove barriers to interethnic adoption. We are concerned that this section might be interpreted to repeal by implication the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901-1963.

The ICWA was enacted in response to "[t]he wholesale separation of Indian children from their families" through termination of parental rights of American Indians. H.R. Rep. No. 1386, 95th Cong., 2d Sess. 9 (1978), reprinted in 1978 U.S.C.C.A.N. 7530, 7531. In response to this concern, Congress enacted the ICWA "to promote the security of Indian tribes and families." 25 U.S.C. 1902; see also Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 34, 36 (1989) (ICWA sought to protect the rights of Indian communities and tribes). The justification for ICWA, therefore, rests upon the unique, government-to-government relationship between the federal government and the federally-recognized Indian tribes. Morton v. Mancari, 417 U.S. 535 (1974) (Because of the unique relationship between federally-recognized tribes and the federal government -- as reflected in the Indian Commerce Clause, U.S. Constitution, art. I, § 8, cl. 3 -- statutes giving preferences to Indian tribes are not constitutionally suspect.) To avoid what we think is an unintended consequence of the broad language in section 430(b)(1), we recommend that ICWA be excepted from section 201 of H.R. 1214.

7. "Clearinghouse and Hotline on Missing and Runaway Children"

Section 201 of the bill, amending section 426 of the Social Security Act to create, under the Attorney General, a clearinghouse and hotline for the collection and dissemination of information on children who have run away or are otherwise missing. Section 201 however, must be read in conjunction with H.R. 4's section 371(e) of the bill which repeals the Missing Children's Assistance Act of 1992 (42 U.S.C. 5771-5779). The Department strongly opposes the repeal of the Act.

The hotline and clearinghouse functions authorized under Section 201, are already performed (among many other activities) by the National Center for Missing and Exploited Children (NCMEC). NCMEC is one of several components funded under the Department's Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Missing and Exploited Children's Program, which is authorized under the Missing Children's Assistance Act. The Section 201 hotline and clearinghouse authority is not a substitute for the programs and services (including those of NCMEC) provided under the authorities of the Missing Children's Assistance Act. As noted above, among NCMEC's services is the provision of a national toll-free hotline and information network for the exchange of data on missing children.

Since the passage of the Missing Children's Assistance Act, the FBI's National Criminal Information Center reports an increase of more than 50 percent in the number of missing persons reports to law enforcement. This reporting increase is due, in large part, to the work of NCMEC and OJJDP.

Section 202(g) of H.R. 4 would repeal Subtitle C of Title XVII of the Violent Crime Control and Law Enforcement Act of 1994. This repeal should be read in the context of the repeal of the Missing Children's Assistance Act. Subtitle C created the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act". This provision increased state and local coordination for programs under the National Center for Missing and Exploited Children (NCMEC). The Department objects to its repeal.

8. "Child Protection Block Grant Program" - "Conforming Amendments"

The Department strongly objects to Section 371(g) of the bill which would repeal Subtitle A of Title II of the Crime Control Act of 1990, the Victims of Child Abuse Act of 1990. This subtitle authorizes support for local and regional child advocacy centers, promoting the use of multidisciplinary teams to address the identification, support through judicial proceeding and treatment of children who have been subject to physical and sexual abuse. It also provides support for the investigation and prosecution of their cases.

Similarly, Subtitle A of Title II authorizes support for the National Center for the Prosecution of Child Abuse. The Department believes that the preservation of the Center is crucial and that a substitute block grant program would neither provide nor facilitate the training and technical assistance needed by local prosecutors to ensure that offenders are brought to justice. Given the seriousness and prevalence of child abuse cases, it is critical to maintain federal leadership and assistance to state and local prosecutors in this area.

9. "Amendments to Laws Relating to Child Protection Block Grant"

Section 371(b)(2) of the bill makes several changes to the Victims of Crime Act of 1984 (VOCA) (42 U.S.C. 10601 et seq.). The Department objects to each of these changes.

The Department notes that the earlier version of the bill, as considered by the House of Representatives, included in this section the repeal of Section 1404(a) of the VOCA. This provision repealed the entire Victims Assistance Program which is administered by the Department's Office for Victims of Crime (OVC). It was subsequently explained by the bill's drafters that the repeal of this section was a drafting error and that the section repealed should have been Section 1404(A). This particular correction has been made, although the Department objects to the repeal of Section 1411(A) as well. However, H.R. 4, as passed by the House, although not repealing VOCA Section 1404(a), nevertheless would end the Victims Assistance Program because it would repeal the funding for the Section 1404(a)

victim assistance program. Therefore, the result would be the same. The funding repeal is set forth in Section 371(b)(2)(A)(i)(aa) of the bill. This Section would remove the available of monies from the Crime Victims Fund to support Section 1404(a), thereby crippling the program. The Department continues to object to these actions because the Crime Victims Assistance Program, which is a block grant program administered by the various states, is one of the few available sources of funds to nearly 3,000 locally based victim assistance programs throughout the country.

Section 371(b)(2) also would repeal both the funding (VOCA Section 1402(d)(2)) and the authorization (VOCA Section 1404(A)) for the Children's Justice Act Program for Native Americans. This program is the only source of Federal funding to improve the investigation and prosecution of child abuse cases in Indian Country. This particular program has funded more than 35 different tribal programs to reduce trauma to child sexual abuse victims and to improve and coordinate service delivery to child abuse victims and their families.

10. "Title VII - Child Support"

Title VII of H.R. 4 contains many provisions that would simplify and streamline the collection of child support. For example, the bill would require states to establish databases that will compile information about each child support order opened in that state. Sec. 711. This information would be sent to a national registry on a regular basis, to aid in enforcement of interstate cases. In addition, to simplify employer procedures for withholding child support from income, the bill would require that each state establish a centralized state collection and disbursement unit, to ensure efficient, timely processing of child support collection and disbursement to custodial parents. Sec. 712.

The bill also would expand the federal parent locator system which would enable states to track quickly the location of debtor parents to enforce child support orders. The expanded locator system would have three major components: a Databank of Child Support Orders; a Directory of New Hires; and an expanded locator component that would allow states to access federal, state and local information to enforce child support orders. Sec. 716. Information such as the obligor's location would be advantageous, but we question whether the carte blanche access provided here is appropriate. Sec. 725.

We note that the bill has been strengthened by requiring states to develop procedures for withholding, suspending, or restricting the use of drivers licenses. We hope that the Senate will adopt similar measures and we look forward to working with staff to discuss other options to strengthen the measures

contained in H.R. 4.

11. "Criminal Forfeiture"

Section 576 of the bill would add a new section 15(h) of the Food Stamp Act of 1977 (7 U.S.C. § 2024(h)) to expand the scope of criminal forfeiture under that Act. This is acceptable. (We note, however, that the bill does not include procedural provisions necessary to govern criminal forfeitures. See, e.g., 21 U.S.C. § 853.) The bill also attempts to establish a revised scheme for the disposition and use of the property forfeited under this new authority. See proposed 7 U.S.C. § 2024(h)(4). This provision would create several problems, conflict with existing law, and should be deleted.

Specifically, this provision would return the proceeds of forfeiture cases to the agency that investigated the case. The apparent theory is that the potential availability of these monies would result in more investigations being conducted. This is an unrealistic expectation. Resources are scarce for general investigative use. Moreover, the scheme envisioned by the bill for reimbursement of investigative expenses is unworkable. Whether or not a forfeiture results will almost never be known until a fiscal year following the year in which the expenses are incurred. Thus, whether last year's investigation will be reimbursed will generally be unknown at the time budget authority for the upcoming year is being sought. On the other hand, if the Congress relies on forfeitures as a source of monies for investigative activity, it is unlikely scarce appropriations will be committed to this need.

Further, the proposal does not replace, but modifies, authorized dispositions of assets forfeited in a special class of cases. Two of the four proposed dispositions (reimbursing State law enforcement for investigative expenses and permitting the Secretary of Agriculture to fund approval, reauthorization, and compliance activities) are inconsistent with the existing Assets Forfeiture Fund statute. In addition to creating additional costs, this proposal would create conflicts over what funds are available. The proposal would create new administrative burdens for the Assets Forfeiture Fund and has the potential for the creation of a needless inter-department conflict. Proposed 7 U.S.C. § 2024(h)(4) should be deleted.

Finally, we note that section 576 does not provide for civil forfeitures. By so doing, the bill would require, needlessly in our view, a criminal indictment and conviction whenever forfeiture is sought for a Food Stamp Act violation.

12. "Limitation on Federal Authority"

In two places, the bill would limit federal authority by providing that

The Secretary may not regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.⁵

The reach of these provisions is unclear. Our assumption is that they are intended to prevent the Secretary from promulgating substantive regulations that govern the disposition of the particular block grant funds at issue in each affected title. Our concern, however, is that the provisions might also be read to extend to the Secretary's enforcement of other global statutes and regulations applicable to all federal funding programs.

For instance, the provisions could be construed to prohibit the Secretary from applying to the states' management of their block grants the provisions of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., Title IX of the Education Amendments Act of 1974, as amended, 20 U.S.C. § 1681 et seq.; and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794. Broadly read, the provisions also would prevent the Secretary from instituting program fraud civil remedies actions against states under the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, which provides administrative remedies for false claims and statements in connection with the receipt of federal funds. Even the Secretary's referral of a matter to the Department of Justice for prosecution or civil action might be barred by the provisions.

To avoid what we think is an unintended consequence, the provisions might be drafted more narrowly to provide that "the Secretary is not authorized by this Act to regulate . . ." Such a provision would make clear that the Secretary may not attach additional conditions to use of the block grants in question, without inadvertently stripping the Secretary of authority to enforce preexisting statutory mandates.

13. Technical Comments

Finally, we would like to offer a few technical comments on the bill as currently drafted.

⁵ Section 101 (amending Social Security Act section 403(f)). The language of the second provision, in section 201 (amending Social Security Act section 423(f)) of the bill, is substantially similar.

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- (1) 1 year after the effective date of a State constitutional amendment achieving consistency with this title; or
- (2) 5 years after the date of the enactment of this title.

We hope that these comments are helpful and we would be pleased to respond to any questions about them. Thank you for providing this opportunity to comment on H.R. 4, as passed by the House. The Office of Management and Budget has advised that there is no objection to this report from the standpoint of the Administration's program.

Sincerely,

Kent Markus
Acting Assistant Attorney General

MEMORANDUM

To: Chris Mustain
OMR

From: David T. Ellwood, ASPE
Rich Tarplin, ASL

Subject: HHS/White House Comments on SAP on H.R. 4

JUN 14 1995
5:45 pm

David and Bruce Reed have coordinated their comments. Bruce has signed off on all of these proposed edits, and we have included ideas from Bruce.

Changes/Inserts:

On page 1, para. 3, first sentence, change: The Senate version of HR 4 represents a ~~significant improvement~~ is somewhat improved over its House counterpart.

Page 1, para 3, second sentence, change: omits some provisions.

Page 1, para 3, last sentence, change: The Administration, nevertheless, ~~does not support~~ opposes the Senate bill in its current form because it falls far short of...to promote. It fails to reform welfare by moving people from welfare to work, it puts states and children at risk of serious hardship, and it could impair the health and safety of adults and children. (Moved from end to clear up organization and message).

Change heading: Work Moving People From Welfare to Work

Bottom of page 1. Replace last sentence with: Both the Congressional Budget Office (CBO) and the Administration estimate that the work requirements in this bill would cost states roughly \$10 billion in the year 2000 alone. Indeed CBO has suggested that without additional resources for work and child care only a tiny handful of States--perhaps 6--would be able to meet the bill's work requirements.

Top of page 2: move the entire first bullet up and make it into a third paragraph under the work section. It makes far more sense organizationally and substantively to include it there.

Change heading: Other Concerns Protecting States and Children

Insert: The Administration is concerned that the Senate bill may hurt both children and states.

Change: The Administration will ~~continue to work with the Senate to improve the current bill~~ believes the bill should be changed in several important ways:

As noted above, first bullet is moved up.

Change second bullet: Protect States and families so they can continue to move people from welfare to work even in the event of emergencies.

Second bullet, after "increased caseloads", add the sentence: **The Senate bill includes a very modest "rainy day" loan fund that allows states to borrow additional money but requires that loans be repaid with interest. This is completely inadequate. HR 4 should include adjustments to a state's allocation based on an increase in the number of poor children or changes in unemployment and population.**

Third bullet: Omit sentence: ~~In addition, ... at a disadvantage.~~

Change third page, first bullet: Protect, not punish, children. not punish them for their parents mistakes.

Third page, first bullet. In the second sentence, change: ~~The Administration favors a more reasonable set of reforms similar to those being put forward by the bipartisan commission on SSI disability reform National Commission on Childhood Disability.~~ Add after the third sentence ending "disability reform": **In addition, the Senate bill also includes a mandatory 5 year cut off for families and children without regard to circumstance. We believe that children should be explicitly protected when their parents are unable to work due to parental illness or disability, responsibilities for caring for a disabled child, or due to high local unemployment.**

After the bullet on "Protect Not Punish Children" add the heading: Preserving the Health and Nutrition of Adults and Children

Convert immigrant bullet to a paragraph. place it after the following which begins The Administration and ends with nutrition and health.

Third page, second to last paragraph, after the words "population growth", add "and saves money."

Last paragraph on page 3: omit--was moved above.

MEMORANDUM

To: Bruce Reed

From: David T. Ellwood, Mary Jo Banc

Subject: The Usual

The urgency of the speech and the weakness of the section on bottom lines led us to complete the enclosed memo. It might come from us to POTUS, from Donna, or whatever. We feel strongly as you know. I assume you don't want to sign onto to this. We really think this is the critical information for the President to understand. It also contains the bottom lines we believe ought to be in the critical paragraph in the speech. In particular in the paragraph about what is necessary we vote for: real work-based reform, basic protections for children, and a genuine federal-state partnership. We may want to move this quickly. I would love your thoughts, reactions, and advice. It is fish or cut bait time I fear.

DRAFT~~CONFIDENTIAL~~ 12/5

From the moment we began the effort to reform welfare, we have all been committed to a basic common ideal: that genuine welfare reform was essential to improving the lives of children and their parents and to creating a brighter future for the nation by moving people toward work and independence. But that goal looks more and more elusive. Indeed the legislation moving through Congress now poses the real danger of doing harm to children and their families, while making work focussed reform less, rather than more, likely.

This Administration has much to be proud of. The expansion of the EITC, the child support enforcement proposals developed by this administration and included in all bills, and the state welfare reform demonstrations going forward under federal waivers will do much to improve the lives of children.

But if a bill like the one passed by the House or reported out of the Senate Finance committee were to become law, we believe that we would see the most dramatic dismantling of protections for children in our nation's history. Many of the proposed cuts are draconian in and of themselves. Worse still, we believe a system of fixed block grants with no state match and few adjustments for economic and demographic change, coupled with a set of unworkable work standards and much less money for training and child care, will set off an extremely damaging and almost wholly *irreversible* "race to the bottom." Indeed, the race has already begun.

You fought to take the "us" versus "them" out of the debate and focussed on *our* children and *our* future. And last year, it appeared that a historic consensus was possible. But now the purpose of reform apparently has changed. It is a vehicle for budget cutting. And with the turn, the divisive rhetoric has returned. The debate on the floor of the House with its talk of wolves and alligators and nazis will be repeated across the country. We again hear the logic that the only way to help "these people" is to simply cut "them" off.

We are not arguing for a blanket rejection of block grants or arguing against dramatically increased state flexibility. We recognize the need to find savings in the budget and that low income programs will have to contribute to those savings. We still believe real reform is possible. But the bills emerging from both the House and the Senate are deeply flawed. Without some critical changes these bills will almost certainly slow real welfare reform, harm states, and seriously hurt poor children and their families.

An End to Reform as We Know It

Both the House and Senate bills are reform killers. With the resources and incentives in current law, many states are already moving rapidly toward work focussed welfare reform. We have already granted nearly 30 waivers. Our Work and Responsibility Act would have accelerated and focussed those reform efforts around work. Some argue that block grants will allow even greater flexibility and more opportunity for reform. But both the House and Senate bills include provisions that make real reform much more difficult:

- o *Unworkable Work Requirements*--The work requirements in the House bill are completely unworkable. With no benefit cuts, by the year 200x, over x million persons would be required to work at least 35 hours per week. No one believes these

are remotely feasible. The Senate bill contains a more reasonable definition of work: training does count, only 20 hours is required, and various forms of community service meet the standard. But the states must still serve nearly 2 million people within 3 years--that compares to the x,000 they are expected to serve this year. CBO estimates the additional cost of meeting these rules would be close to \$10 billion by the year 2000. With the total block grant set at 20% below what would otherwise have been spent in the the year 2000 under current law, meeting the standards is clearly impossible.

- o *Less Resources for Work*--Every major welfare reform proposal last year from both Republicans and Democrats, including the original Contract with America proposal, included more resources for training, work, and child care. But both the House bill and the Senate Finance mark contain dramatically less money.

So we have unworkable work requirements and dramatic cuts in resources. Unless they are willing to spend vast new state resources, states will be faced with only three choices: (1) They can cut people off and lower benefits and use at least some of the savings for work programs for those who are still on. The House bill even encourages cuts by counting any caseload reductions as being equivalent to placing people in a job! (2) They can try to game the rules by finding ways to count trivial activities as work. Or (3) they can ignore the federal work rules and get 95% of their block grant money anyway. *None of these are real reform, indeed they move in precisely the wrong direction.* Less not more people are likely to be placed in real work settings that help families achieve genuine independence.

States and Localities Will Be Hurt

States face real dangers from these proposals:

- o *Direct Spending Cuts*--Most of the cuts will directly or indirectly affect state and local budgets. Taking \$12 billion out of spending for AFDC, child care, and work programs relative to baselines will have a direct and immediate influence. So will the cuts in child protective services and adoption that are found in the House bill. Cuts in benefits for legal immigrants and disabled children will create less direct, but equally serious problems. Disabled children who no longer qualify for SSI will often qualify for AFDC, and each new dollar will come from the state. Destitute legal immigrants who need medical care or other support will have to be cared for somehow.
- o *No Adjusters or Automatic Stabilizers*--The lack of any adjusters for recessions, inflation, population growth, disaster, or demographic changes mean states will be left to the mercy of largely uncontrollable forces. If this bill had been passed in 1988, states would receive 33% federal aid now on average. And some states, such as Florida, would receive nearly 70% less federal aid than they do now.

Most states are currently seeing modest declines in their caseload. This is due to economic recovery and some short term demographic trends. Thus for some the view is that freezing

federal expenditures at the 1994 levels seems like good news. But economies rise and fall in the next year or two, the number of women aged 18-24 (which has been falling) will start rising again. Ultimately states will suffer, and those states with the biggest problems will have the most to lose.

Children Will Be Much Worse Off

This bill will hurt children and increase child poverty. A very large share of the people who have been in this field their whole life believe a bill like the Senate or House bill will set up a permanent "race to the bottom". This race is likely to compound any federal cuts and lead to the large reductions in support for families, almost certainly the most dramatic cuts since the New Deal.

- o *Cutting the Safety Net*--The House bill includes 15-20% cuts in AFDC and work, child care, child protective services including adoption and foster care, and food stamps by the year 2000. It includes a 11% cut in child nutrition and a 40% cut in SSI for disabled children. The Senate bill does not include the cuts for child protective services or child nutrition, and has smaller cuts for disabled children, but the bottom line is still dramatic reductions in federal support for basic safety net for children.
- o *No State Match or Maintenance of Effort*--Perhaps the biggest single problem is the ending of any state match/maintenance of effort rules. Today if Mississippi or Arkansas reduce spending by \$1 they lose another \$4 in federal funds. Even the wealthier states lose at least \$1 for every \$1 they cut. With a block grant if they cut spending, they will lose no federal funds.
- o *Wildly Disparate Support For Poor Children*--Several southern states including Arkansas, Texas, Mississippi, and South Carolina will be getting roughly \$400 or less per poor child in federal support annually to pay for income support, welfare to work programs, and AFDC related child care. California will get more than \$1700 per poor child, and a number of wealthier northeastern states including New York and Massachusetts will receive more than \$2000 per poor child per year. These differences made some sense when they reflected choices about state spending in the South. (They chose to spend much less, even though they had higher match rates). But if these are pure federal block grants for states to spend in support of poor children, it makes no sense whatsoever to give poorer states vastly less per poor child than what wealthier states receive.
- o *Erosion Over Time*--It is likely that block grant funds will be cut further over time. As the impact and reality of sizable reductions in discretionary and entitlement spending hits home, few may want to stand up to defend the "welfare block grant". Already we seen a Wall Street Journal article saying House Republicans are eyeing them for further cuts. And several people have reported that Bill Kristol and others are saying that once these are block grants they can be cut back quite easily--the

ultimate goal is to get the federal government out of this business entirely.

- o *Beggar Thy Neighbor Policies*--It used to be that some locales had a simple welfare policy: a one-way bus ticket. If one states starts imposing dramatic benefit cuts or completely unreasonable time limits, neighboring states will naturally fear welfare migration. Already the Mayor Giuliani of New York City has said that his policies may force poor people to move to New Jersey and that might be better for them. With all the other pressures of the bill, many state officials will see cutting support both for low income families as a necessary evil. It certainly makes a convenient argument for those who wish to cut.

Key Elements In Any Real Reform Plan

To avoid the dangers inherent in the bills passed by the House and the Senate Finance Committee, and to bring about genuine welfare reform focused on work, we believe that for any bill to be acceptable to the Administration it must contain the following elements:

1. Basic protections for children. To protect children, the bill must not only avoid conservative mandates like a mandatory cut-off of unmarried mothers under 18 and their children and mandatory family caps, but it must also include provisions that will mitigate the race to the bottom. These include requirements that states serve all the children that they define as needy and eligible, and that they provide some exemptions from time limits for children whose parents are unable to work or to find work.
2. A genuine federal-state partnership. A genuine federal state partnership combines state flexibility with national accountability and expectations. It commits both parties to provide resources necessary to protect children and to move recipients from welfare to work. The two key components of this commitment are a requirement for a state match or maintenance of effort and a commitment by the federal government to provide additional necessary resources to respond to economic downturns, population growth, and other events beyond the state's control.
3. Genuine work-based reform. To bring about genuine reform, a bill must include serious and workable work participation requirements. It must also include the resources and incentives to make the welfare to work program succeed. A separate pool of money should be set aside for work and child care costs. Money in the work and child care blocks should grow over time to meet increased needs.

Without highly visible leadership on your part, including a clear willingness to indicate what elements are essential before you will sign a bill, it will be too late to stop the momentum. Then one of the enduring legacies of these few years, may be the dismantling of support for children which began with the New Deal. Before the bill reaches the Senate floor, we think it is essential that we have a careful articulation of the dangers of the current proposals and a clear sense of the key elements that must be included in a bill that you could sign.

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

LRM NO: 1857

FILE NO: 16

6/13/95

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 6

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet FORSGREN (for) *C. Mustain* (for)
Assistant Director for Legislative Reference
OMB CONTACT: Chris MUSTAIN 395-3923
Legislative Assistant's line (for simple responses): 395-7382

URGENT

SUBJECT: **"REVISED"** Proposed Statement of Administration Policy on HR 4, Family Self-Sufficiency Act

DEADLINE: 10:30 am Wednesday, June 14, 1995

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:**AGENCIES:**

230-AGRICULTURE, CONG AFFAIRS - Vince Ansell (all testimony) - (202) 720-7095
328-HHS - Vacant - (202) 690-7760
217-JUSTICE - Kent Markus - (202) 514-2141
429-National Economic Council - Sonyla Matthews - (202) 456-2174

EOP:

Ken Apfel
Doug Steiger
Barry White
Keith Fontenot (?)
Shannah Koss
Wendy Taylor
Laura Olivon
Art Stigile
Alicia Kolalan
Lin Liu
Nani Coloretti
Chuck Konigsberg
Lydia Muniz
Bruce Reed
Jeremy Ben-Ami
Diana Fortuna
Pat Griffin
Laura Tyson
Tom O'Donnell
Jim Murr
Janet Forsgren

URGENT

**RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM**

**LRM NO: 1657
FILE NO: 15**

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

**TO: Chris MUSTAIN 395-3923
Office of Management and Budget
Fax Number: 395-8148
Branch-Wide Line (to reach legislative assistant): 395-7362**

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: **REVISED Proposed Statement of Administration Policy on HR 4, Family Self-Sufficiency Act**

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

DRAFTJune 13, 1995
(Senate)**H.R. 4 - Family Self-Sufficiency Act**
(Packwood (R) OR)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that embodied these values. The President's proposal would: establish tough work requirements while providing opportunities for education, job training, and child care to working people; impose tough child support enforcement measures; require teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children.

In all its welfare reform efforts, the Administration has emphasized the basic values of work and responsibility. The President's economic plan expanded the earned income tax credit, which cut taxes for 15 million working families, to reward work over welfare. Last February, the President issued an Executive Order to crack down on Federal employees and military personnel who owe delinquent child support. In the past two years, the Administration has granted waivers from Federal welfare rules to 29 States to try innovative ways to promote work and responsibility. The Administration remains committed to working with the Congress in a bipartisan way to pass bold welfare reform legislation this year.

The Senate version of H.R. 4 represents a significant ^{substantive} improvement over its House counterpart. The Senate bill includes tough child support enforcement provisions proposed by the President, maintains funding for child protective services, and omits ^{some} other provisions from the House bill that would be very harmful to children. The Administration, nevertheless, does not support the Senate bill in its current form because it still falls short of the basic goals and values that most Americans want welfare reform to promote.

Work

There is a bi-partisan consensus that the central goal of welfare reform must be work. Unlike the legislation proposed by the Administration last year, however, the current Senate bill would not end welfare as we know it by moving people from welfare to work. The bill provides neither the resources nor the incentives for States to move welfare recipients into the workforce. The Congressional Budget Office estimates that without additional resources for work and child care, only six States would be able to meet the work requirements in the current bill.

In fact, H.R. 4 would repeal three child care programs that now serve more than 640,000 children. It makes no sense to cut child care for people trying to leave welfare and for working people who are trying to stay off welfare in the first place. Furthermore, by putting resources for cash benefits, child care, and employment assistance into one block grant, the bill provides no guarantee that States will put any money into work programs and child care that move people off welfare. The Administration strongly recommends that employment and child care be funded separately from cash benefits.

Other Concerns

The Administration will continue to work with the Senate to improve the current bill to:

- o Provide incentives and resources that reward States for putting more people to work, not for cutting them off. We must require people who can work to go to work, and make sure that they have child care when they do. The current bill gives States an incentive to save money by throwing people off the rolls. If we're going to change the culture of the welfare office, we've got to reward success instead of the status quo. The Administration supports a performance bonus that will force the welfare bureaucracy and recipients to focus on moving from welfare to work.
- o Protect States so they can continue to move people from welfare to work even in the event of economic downturn, population growth, or unpredictable emergencies. In contrast to the funding mechanisms now in place, funding under H.R. 4 would not adjust adequately for such events. For example, States in recession would encounter reduced revenues and increased caseloads. In such times, it is the working poor who would most likely need, but not receive, temporary assistance.
- o Provide incentives for States to maintain their stake in moving people from welfare to work. H.R. 4 would neither require nor encourage States to contribute resources to welfare reform. There is a danger that States would "race to the bottom" to save State dollars or to deter migrants from other States. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the investments needed to help people become self-sufficient. In addition, because the current allocation of funds is based largely on the amount States contribute, the bill would leave poorer States and those experiencing population shifts at a disadvantage. H.R. 4 should require States to provide matching funds or to maintain their current level of funding.

- o Protect children, not punish them for their parents' mistakes. H.R. 4 would deny cash benefits to more than 350,000 disabled children over the next five years. The Administration favors a more reasonable set of reforms similar to those being put forward by the bipartisan commission on SSI disability reform. In addition, while the Senate bill wisely omits House provisions to base State funding in part on an "illegitimacy ratio", the Senate bill fails to include provisions to address teen pregnancy. The Administration supports a national campaign against teen pregnancy, and believes that minor mothers should receive benefits when they make a serious effort to be responsible and turn their lives around -- by living at home, staying in school, and identifying the child's father.
- o Provide fair treatment for legal immigrants. The Administration supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility for those whom they encourage to enter the United States. However, the Administration opposes H.R. 4's unilateral application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the bill's application of deeming provisions to the Medicaid program.

The Administration understands that the Senate is likely to consider as an amendment to H.R. 4 the Agriculture Committee's language to amend the Food Stamp and child nutrition programs. The Administration strongly supports the Committee's decision not to block grant these critical programs. The Administration, however, is concerned about the severity of the cuts to the Food Stamp program and eligibility restrictions in the Agriculture Committee's proposal. The Food Stamp and child nutrition programs have produced significant and measurable improvements in nutrition and health.

Daschle-Breaux-Mikulski Reform Proposal

The Administration supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Unlike H.R. 4, the proposal provides resources and incentives to move people to work, protects children, requires States to maintain their stake in welfare reform, and provides adequate adjustment mechanisms for economic downturns and population growth. The Administration urges the Congress to agree upon a bipartisan bill that addresses these critical elements of real welfare reform.

In summary, the Administration does not support H.R. 4 in its current form because it: (1) would fail to reform welfare by moving people from welfare to work; (2) would impose new burdens on States that place children and families at risk of serious

Saves
Money

hardship; and (3) could impair the health and nutrition of children and families.

Pay-As-You-Go Scoring

H.R. 4 would reduce direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring estimate for this bill is under development.

* * * * *

6/8

DRAFT SHALALA STATEMENT

This is a bold plan to end the current welfare system and replace it with a new, transitional program focused on work. As the President has said many times, the centerpiece of welfare reform should be helping people earn a paycheck, not a welfare check. That means that states must have the necessary resources for child care, training, and work in order to get the job done. State bureaucracies should be rewarded for getting people to work or prepare for work -- not for cutting people from the rolls. Recipients must move toward work and self-sufficiency from the very first day. And time limits must make clear to welfare recipients and caseworkers that welfare is a bridge to independence.

This welfare reform plan, unlike the legislation passed by the Senate Finance Committee, includes all of the elements that are necessary to move young parents into the work force. It also promotes parental responsibility, protects children, strengthens child support enforcement, and gives states the flexibility and the tools they need to succeed. Senators Daschle, Breaux and Mikulski have worked hard on this proposal, and I believe it can be the basis of a bipartisan agreement on welfare reform.

June 13, 1995
(Senate)

H.R. 4 - Family Self-Sufficiency Act
(Packwood (R) OR and ___ cosponsors)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that embodied these values. The President's proposal ~~would have~~ established tough work requirements while providing opportunities for education, job training, and child care to working people; imposed tough child support enforcement measures; required teen mothers to live at home, stay in school, and identify their child's father; increased State flexibility and accountability; and ~~maintained~~ ^{protected} ~~protections~~ for children.

In all its welfare reform efforts, the Administration has emphasized the basic values of work and responsibility. The President's economic plan expanded the earned income tax credit, which cut taxes for 15 million working families to reward work over welfare. Last February, the President issued an Executive Order to crack down on Federal employees and military personnel who owe delinquent child support. In the past two years, the Administration has granted waivers from Federal rules to 29 States to try innovative ways to promote work and responsibility.

The Administration remains committed to working with the Congress in a bipartisan way to pass bold welfare reform legislation this year. The Senate version of H.R. 4 represents a significant improvement over its House counterpart. The Senate bill includes tough child support enforcement provisions proposed by the President and omits several provisions from the House bill that would be very harmful to children. The Administration, nevertheless, opposes the Senate bill because it still falls short of the basic goals and values that most Americans want welfare reform to promote.

WORK

There is a bi-partisan consensus that the central goal of welfare reform must be work. Unlike the legislation proposed by the Administration last year, however, the Senate bill would not end welfare as we know it by moving people from welfare to work. The bill provides neither the resources nor the requirements for States to ^{more} prepare welfare recipients to ^{for the work force} become self-supporting. ~~H.R. 4 would not ensure that adequate child care, education, and training are provided to make work pay and give welfare recipients the skills to hold a job.~~ The Congressional Budget Office estimates that ~~the bill's lack of funding for job training work and child care would permit only six States to meet the bill's work requirements.~~ ^{in the current bill.}

It makes no sense to cut

In fact, H.R. 4 would repeal three child care programs that now serve more than 640,000 children. ~~Cutting child care for people trying to leave welfare and for working people who are trying to stay off welfare is contrary to the goal of achieving real welfare reform.~~ Furthermore, by

~~Compounding the problems created by the bill's inadequate funding is the structure of the block grant. By putting resources for cash benefits, child care, and employment assistance into one block grant, States would be forced to choose between (1) providing cash benefits to families in need of assistance and (2) meeting the bill's work requirements by providing child care and employment assistance to a smaller population of its low-income citizens. States should be rewarded for putting more people to work, not for cutting them off. The Administration strongly recommends that cash benefits be funded separately from child care and employment assistance.~~

there is no guarantee that states will put money into work & care instead of more people off welfare.

from cash benefits

RESPONSIBILITY

Welfare reform must send a strong message to young people that they should not get pregnant or father a child until they are ready to take responsibility for that child's future. The President has called for a national campaign against teen pregnancy that sends a clear message about abstinence and responsible parenting. While the Senate bill wisely omits House provisions to base State funding on an "illegitimacy ratio," the Senate bill fails to include provisions to address teen pregnancy.

The Administration believes that minor mothers should receive benefits when they make a serious effort to be responsible and turn their lives around -- by living at home, staying in school, and identifying the child's father. ~~In contrast, the Senate bill would allow States to automatically punish innocent children by denying benefits to those born to unwed parents under age 18. This approach could deny many minor mothers the opportunity to turn their lives around and provide a stable environment for their child.~~

NO

The Administration will continue to work with the Congress *Senate?* to address serious concerns about provisions of H.R. 4 that would: *to improve the current bill in key areas:*

- o ~~Punish innocent~~ ^{Protect} children. H.R. 4 would deny cash benefits to over ? disabled children. ~~The bill also would cut off children whose parents have received welfare for more than five years, whether the parent is able to work or not. It is essential that children are protected in reforming the welfare system.~~ *not cut off for parents' mistakes.*

→ foster care?

Guide *Provide* *incentives + resources to move people from welfare to work, not cutting them off.*

o ~~Leave States, with inadequate resources.~~ *that remind states for money* *for growth* *but some people* *who are to work* *but some who* *they do.* *The current* *incentive to* *move people* *off.* *Perf. based* *instead*

H.R. 4 would replace existing programs with capped grants to States. In contrast to the funding mechanisms now in place, funding under H.R. 4 would not adjust adequately for an economic downturn or for growth in a State's low-income population. Without such adjustments, States in recession would encounter reduced revenues and increased caseloads. In such times, it is the working poor who would most likely need, but not receive, temporary assistance.

Protect states *so as not to* *be too even in* *economic* *etc.*

o ~~Provide perverse incentives for States to reduce their commitment to welfare assistance.~~ *maintain* *stake in moving* *people from welfare.*

H.R. 4 would neither require nor encourage States to contribute resources to welfare reform. There is a danger that States would "race to the bottom" to save State dollars or to deter migrants from other States. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the investments needed to help people become self-sufficient. H.R. 4 should require States to provide matching funds or to maintain their current level of funding. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the States. *Race to bottom* *due to* *independence.*

In addition, the Administration understands that the Senate is likely to adopt Agriculture Committee language to amend the Food Stamp and other nutrition programs. The Administration strongly supports the committee's decision to not block grant these critical programs. The Administration, however, is concerned about the severity of the cuts to the Food Stamp program included in the Agriculture Committee's proposal. These programs have produced significant and measurable improvements in health among the many who participate in them. *nutritional*

and incentives

The Administration supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Unlike H.R. 4, the proposal provides resources for ~~child care and training~~ to move people to work, protects children, requires States to maintain their ~~commitment to low-income families~~, and provides adequate adjustment mechanisms for economic downturns and population changes. These are critical elements of real welfare reform that should be addressed before a bill is presented to the President.

We urge *the Congress* *to agree* *on a* *bill - WR* *but that* *addresses* *these* *concerns*

In summary, the Administration opposes H.R. 4 in its current form because it: (1) would fail to reform welfare by moving people from welfare to work; (2) ~~would reduce Federal and State funding~~ *in ways that* *place children and families at risk of serious hardship; and* (3) could impair the health and nutrition of children and families. *imposes new* *burdens on* *states*

Pay-As-You-Go Scoring

H.R. 4 would reduce direct spending. However, the House and Senate Budget resolutions specify that the budget savings from H.R. 4 are to be included in a package of offsets designed to pay for upcoming tax legislation. Therefore, the budget savings in H.R. 4 would go neither toward real welfare reform nor toward deficit reduction, but primarily to finance tax cuts for the wealthy.

* * * * *

(Do Not Distribute Outside the Executive Office of the President)

This position was developed by LRD (Mustain) in consultation with HRD (), OIRA (), BASD (), GC (), HTF (), VAP (), and TCJ (). The Departments of Health and Human Services (), Agriculture (), Justice (), Labor (), State (), Defense (), Transportation (), Housing and Urban Development (), the Treasury (), Veterans Affairs (), and the Office of Personnel Management (), the Office of National Drug Control Policy (), the Interagency Council for the Homeless (), the Federal EBT task force (), the Domestic Policy Council (), and the Council of Economic Advisers () agree with this position.

On June 21, 1994, the President transmitted to Congress the "Work and Responsibility Act of 1994." Major elements of the draft bill would: (1) strengthen paternity establishment; (2) improve collection of delinquent child support; (3) provide for family planning; (4) require unwed teens with children to live with their parents; (5) provide job search and training assistance; (6) provide greater child care assistance to those in training; (7) require AFDC recipients to work after two years in the program; and (8) make the application process and eligibility standards of the AFDC and Food Stamp programs more consistent.

On March 24, 1995, the House passed H.R. 4. Except for its child support enforcement provisions, the House bill differs significantly from the Administration's 1994 proposal. The bill would end the entitlement status of many welfare assistance programs (Food Stamps being the only major exception) and instead provide block grants to the States. The Administration opposed the House bill in a Statement of Administration Policy.

As ordered reported by the Senate Finance Committee, the Senate version of H.R. 4 follows the House model of converting welfare entitlement programs into a block grant to the States. Unlike its House counterpart, however, the Senate bill includes fewer restrictions on States and does not block grant foster care and adoption assistance programs. In addition, the Senate Finance Committee did not include provisions affecting the Food Stamp Program, nutrition programs, and the Child Care and Development Block Grant program (CCDBG). These programs fall under the jurisdiction of other Committees. Proposals to reform the Food Stamp Program, nutrition programs, and CCDBG are expected to be adopted on the Senate floor.

Major Provisions of H.R. 4

In place of certain welfare programs, H.R. 4 would establish a block grant to States -- the Block Grant for Temporary Assistance for Needy Families. H.R. 4 also would impose new work requirements, tighten eligibility for SSI, establish new child

support enforcement mechanisms, and allow States to deny benefits to aliens. The major elements of these proposals are discussed below.

The Block Grant for Temporary Assistance for Needy Families (TANF) would provide funds to States in place of the following programs: (1) Aid to Families with Dependent Children; (2) Job Opportunities and Basic Skills (JOBS); (3) IV-A, Transitional, and At-risk child care; and (4) Emergency Assistance. For these grants, H.R. 4 would authorize appropriations of \$16.8 billion in each of FYs 1996-2000. States would be prohibited from paying cash benefits to a recipient for more than five years (or earlier at State's option). States could continue to provide benefits past the five year limit for up to 10 percent of its caseload for hardship cases. Individuals receiving Social Security benefits, Supplemental Security Income benefits, or foster care payments would not be eligible for TANF benefits.

To address emergency funding needs, H.R. 4 would authorize appropriations of \$1.7 billion in FY 1996 to establish a Supplemental Assistance for Needy Families Federal Fund. HHS would administer the fund to provide loans to States in time of need. Loans could not exceed 10 percent of the State's TANF grant.

To receive a TANF block grant, H.R. 4 would require a State to certify that it operates a JOBS program, a child support enforcement program, child welfare programs, and an income and eligibility verification program. HHS would be authorized to collect penalties from States for failure to: spend funds in accord with program requirements; submit an annual report; meet JOBS participation rates; administer an income and eligibility verification program; or repay amounts borrowed from the Supplemental Assistance for Needy Families Federal Fund. H.R. 4 would give States the option make all non-citizens ineligible for TANF benefits.

H.R. 4 would impose new work requirements. After two years (whether consecutive or not), at least one parent in a recipient family would be required to engage in work activities. The bill also would require States to meet increased participation rates under the JOBS program -- 25 percent of their caseload in FY 1996 and rising to 50 percent in FY 2001. Participation is defined as at least 20 hours per week in JOBS activities (excluding job search). For two-parent TANF families, one parent would have to participate in at least 30 hours of work activities. In addition, States must meet a participation rate of 90 percent for two-parent families by FY 1999. States would be required to guarantee child care for recipients with children under age six in order to participate in JOBS activities.

The bill would restrict eligibility for SSI benefits. Under the bill, drug and alcohol addiction would no longer be a basis for eligibility for SSI benefits. Legal or illegal aliens would no longer qualify for SSI benefits unless they have worked in the United States long enough to qualify for Social Security disability income or old age benefits. Asylees and refugees would be eligible for SSI for up to five years after moving to the United States. Noncitizens who served in the armed forces (and their spouses and children) would also be eligible.

H.R. 4 also would limit SSI payments to only the most severely disabled children by more narrowly defining what constitutes a childhood disability. For example, the bill would (1) eliminate a double count of maladaptive behavior under the current "Listing of Impairments" (LOI) that determines eligibility for SSI benefits and (2) eliminate the "individual functional assessment" process that provides an additional and often lower standard of eligibility than the LOI. The bill also would establish a National Commission on the Future of Disability Programs to make recommendations to improve Federal disability programs.

H.R. 4 includes child support enforcement provisions similar to those proposed by the Administration. As in the Administration's bill, H.R. 4 would: (1) require States to suspend professional and other licenses to parents that owe delinquent child support; (2) require States to create central case registries to track the status of support orders; (3) establish a Federal Directory of New Hires to help track down parents delinquent in their support payments; (4) improve paternity establishment, (5) expand administrative enforcement of child support orders; (6) simplify procedures to review and adjust orders; and (7) improve enforcement of orders by means such as the Federal income tax refund offset.

Pay-As-You-Go Scoring

Per HRD () and BASD (), H.R. 4 is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990 because it would reduce direct spending. CBO . . .

LEGISLATIVE REFERENCE DIVISION
June 13, 1995 - 10:30 a.m.

Pay-As-You-Go Scoring

H.R. 4 would reduce direct spending. However, the House and Senate Budget resolutions specify that the budget savings from H.R. 4 are to be included in a package of offsets designed to pay for upcoming tax legislation. Therefore, the budget savings in H.R. 4 would go neither toward real welfare reform nor toward deficit reduction, but primarily to finance tax cuts for the wealthy.

* * * * *

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LEGISLATIVE REFERENCE DIVISION
June 13, 1995 - 10:30 a.m.

June 13, 1995
(Senate)

H.R. 4 - Family Self-Sufficiency Act
(Packwood (R) OR and ___ cosponsors)

The Administration strongly supports enactment of real and effective welfare reform that promotes the basic values of work and responsibility. Last year, the President proposed a sweeping welfare reform package that embodied these values. ~~The President's proposal would: establish tough work requirements while providing opportunities for education. The President's proposal would have: established tough work requirements while providing opportunities for education, job training, and child care to working people; impose tough child support enforcement measures; require teen mothers to live at home, imposed tough child support enforcement measures; required teen mothers to live at home, stay in school, and identify their child's father; increase State flexibility and accountability; and provide basic protections for children. increased State flexibility and accountability; and maintained protections for children.~~

In all its welfare reform efforts, the Administration has emphasized the basic values of work and responsibility. The President's economic plan expanded the earned income tax credit, which cut taxes for 15 million working families to reward work over welfare. Last February, the President issued an Executive Order to crack down on Federal employees and military personnel who owe delinquent child support. In the past two years, the Administration has granted waivers from Federal rules to 29 States to try innovative ways to promote work and responsibility.

The Administration remains committed to working with the Congress in a bipartisan way to pass bold welfare reform legislation this year. The Senate version of H.R. 4 represents a significant improvement over its House counterpart. The Senate bill includes tough child support enforcement provisions proposed by the President and omits several provisions from the House bill that would be very harmful to children. The Administration, nevertheless, ~~does not support the Senate bill in its current form because it still falls short of the basic goals and values that most Americans want welfare reform to promote. opposes the Senate bill because it still falls short of the basic goals and values that most Americans want welfare reform to promote.~~

WORK

There is a bi-partisan consensus that the central goal of welfare reform must be work. ~~Unlike the legislation proposed by the Administration last year, however, the current Senate bill would not end welfare as we know it by moving people from welfare to work. The bill provides neither the resources nor the incentives for States to move welfare recipients into the workforce. The Congressional Budget Office estimates that without additional~~

~~resources for work and child care, only six States would be able to meet the work requirements in the current bill. The Senate bill would not end welfare as we know it by moving people from welfare to work. The bill provides neither the resources nor the requirements for States to prepare welfare recipients to become self-supporting. H.R. 4 would not ensure that adequate child care, education, and training are provided to make work pay and give welfare recipients the skills to hold a job. The Congressional Budget Office estimates that the bill's lack of funding for job training and child care would permit only six States to meet the bill's work requirements.~~

~~In fact, H.R. 4 would repeal three child care programs that now serve more than 640,000 children. It makes no sense to cut child care for people trying to leave welfare and for working people who are trying to stay off welfare in the first place. Furthermore, by putting resources for cash benefits, cutting child care for people trying to leave welfare and for working people who are trying to stay off welfare is contrary to the goal of achieving real welfare reform.~~

~~Compounding the problems created by the bill's inadequate funding is the structure of the block grant. By putting resources for cash benefits, child care, and employment assistance into one block grant, the bill provides no guarantee that states will put any money into work and child care that move people off welfare. The Administration strongly recommends that child care and employment be funded separately from cash benefits.~~

~~The Administration will continue to work with the Senate to improve the current bill in key areas:~~

~~Provide incentives and resources that reward States for moving people from welfare to work. States would be forced to choose between (1) providing cash benefits to families in need of assistance and (2) meeting the bill's work requirements by providing child care and employment assistance to a smaller population of its low-income citizens. States should be rewarded for putting more people to work, not for cutting them off. We must require people who can work to go to work, and make sure that they have child care when they do. The current bill gives states an incentive to save money by throwing people off the rolls. If we're going to change the culture of the welfare office, we've got to reward success instead of the status quo. The Administration supports a performance bonus that will force the welfare bureaucracy and recipients to focus on moving from welfare to work.~~

~~Protect states so they can continue to move people from welfare to work even in the event of economic downturn, population growth, or unpredictable emergencies. The~~

~~Administration strongly recommends that cash benefits be funded separately from child care and employment assistance.~~

RESPONSIBILITY

~~Welfare reform must send a strong message to young people that they should not get pregnant or father a child until they are ready to take responsibility for that child's future. The President has called for a national campaign against teen pregnancy that sends a clear message about abstinence and responsible parenting. In contrast to the funding mechanisms now in place, funding under H.R. 4 would not adjust adequately for an economic downturn or for growth in a State's low-income population. Without such adjustments, States in recession would encounter reduced revenues and increased caseloads. In such times, it is the working poor who would most likely need, but not receive, temporary assistance.~~

■

~~o. Provide incentives for States to maintain their stake in moving people from welfare to work.~~

~~o. Provide perverse incentives for States to reduce their commitment to welfare assistance. H.R. 4 would neither require nor encourage States to contribute resources to welfare reform. There is a danger that States would "race to the bottom" to save State dollars or to deter migrants from other States. Many States could be expected to withdraw their own funds, cut benefits, purge large numbers of current recipients from the rolls, and avoid the investments needed to help people become self-sufficient. H.R. 4 should require States to provide matching funds or to maintain their current level of funding.~~

~~o. Protect children, not punish them for their parents' mistakes. Real welfare reform should help lift children out of poverty, not come at the expense of children who are abused, disabled, or born to young unwed mothers. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the States.~~

~~THE FOLLOWING TEXT WAS MOVED~~

~~H.R. 4 would deny cash benefits to over ? disabled children. The bill also would cut off children whose parents have received welfare for more than five years, whether the parent is able to work or not. It is essential that children are protected in reforming the welfare system.~~

~~o Leave States with inadequate resources. H.R. 4 would replace existing programs with capped grants to States.~~
~~THE PRECEDING TEXT WAS MOVED~~

~~THE FOLLOWING TEXT WAS MOVED~~

~~While the Senate bill wisely omits House provisions to base State funding on an "illegitimacy ratio," the Senate bill fails to include provisions to address teen pregnancy. The Administration support a national campaign against teen pregnancy, and believes that minor mothers should receive benefits when they make a serious effort to be responsible and turn their lives around -- by living at home.~~

~~The Administration believes that minor mothers should receive benefits when they make a serious effort to be responsible and turn their lives around -- by living at home, staying in school, and identifying the child's father. In contrast, the Senate bill would allow States to automatically punish innocent children by denying benefits to those born to unwed parents under age 18. This approach could deny many minor mothers the opportunity to turn their lives around and provide a stable environment for their child.~~

~~The Administration will continue to work with the Congress address serious concerns about provisions of H.R. 4 that would:~~

~~o Punish innocent children.~~
~~THE PRECEDING TEXT WAS MOVED~~

~~In addition, the Administration understands that the Senate is likely to adopt Agriculture Committee language to amend the Food Stamp and other nutrition programs. The Administration strongly supports the committee's decision to not block grant these critical programs. The Administration, however, is concerned about the severity of the cuts to the Food Stamp program included in the Agriculture Committee's proposal. These programs have produced significant and measurable improvements in nutrition and health. These programs have produced significant and measurable improvements in health among the many who participate in them.~~

~~The Administration supports the welfare reform proposal offered by Senators Daschle, Breaux, and Mikulski. Unlike H.R. 4, the proposal provides resources and incentives to move people from welfare to work, the proposal provides resources for child care and training to move people to work, protects children, requires States to maintain their stake in welfare reform, and provides adequate adjustment mechanisms for economic downturns and population growth. The Administration urges the Congress to agree upon a bipartisan bill that address these critical elements of real welfare reform, requires States to maintain their~~

~~commitment to low income families, and provides adequate adjustment mechanisms for economic downturns and population changes. These are critical elements of real welfare reform that should be addressed before a bill is presented to the President.~~

In summary, ~~the Administration does not support H.~~ the Administration opposes H.R. 4 in its current form because it: (1) would fail to reform welfare by moving people from welfare to work; ~~(2) would impose new burdens on states that place children and families at risk of serious hardship;~~ ~~(2) would reduce Federal and State funding in ways that place children and families at risk of serious hardship;~~ and (3) could impair the health and nutrition of children and families.

1

The Honorable Bob Packwood
 Chairman, Senate Finance Committee
 United States Senate
 Washington, D.C. 20515

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance.

Welfare reform is a top priority for this Administration and for all Americans, without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, Congress passed the Administration's economic plan, cutting taxes for 15 million working Americans and rewarding work over welfare. In 1994 we collected a record level of child support--\$10 billion. In the past two years, the Administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994. It included serious work requirements made real by opportunities for job placement, education, training, child care and supports to working people. It included a stringent set of provisions to ensure parental responsibility and reduce teen pregnancy. It maintained a basic structure of protections for children. It increased state flexibility without sacrificing either federal or state responsibility for performance.

The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. The Chairman's mark rightly includes important child support enforcement measures the Administration fought for in the House, that would more than double child support collections over the next five years. It wisely abandons ~~some mean-spirited provisions the Administration opposed in the House-passed bill, such as the denial of benefits to children of young unwed mothers.~~ *is it getting better* The Senate bill moves in the right direction on reform of the SSI program for children. The Senate bill also wisely omits harmful changes in child protection programs from its welfare reform. It is wrong to punish children for their parent's mistakes, and the ~~Senate~~ *Senate* should resist any effort to do so.

The C or more in it direction, but But, the Chairman's mark still falls short of the kind of real welfare reform that Americans in both parties expect. It does not provide ~~the resources necessary to move recipients from welfare to work.~~ *Senate Congress* *states* *or incentives* It is tough on children. It shifts costs to the States and undermines our obligation to hold State bureaucracies accountable for results. *welfare*

Real Work Requirements

The central goal of welfare reform must be moving people from welfare to work. Work has always been at the heart of the President's approach to welfare reform over the last fifteen years. Work was at the core of the Family Support Act. Work has been at the core of the welfare reform waivers this Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and more than two dozen other states. To be successful, welfare reform must reward, demand, and encourage work.

The Administration believes that anyone who can work should go to work as quickly as possible. We should build toward a system that requires people coming on to welfare from the first day to participate in job search, job placement, education or training needed to move off welfare and into a job quickly. The Administration also believes that those who are not willing to work should be removed from the rolls. Those who are willing to work should have the opportunities and the supports they need to work.

Real welfare reform is first and foremost about work -- and the system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States must have the necessary resources for child care, training, and work in order to get the job done. State welfare bureaucracies should be rewarded for getting people to work or prepared for work -- not for blindly cutting people from the rolls. Recipients must sign personal responsibility agreements, and move toward work and self-sufficiency from the very first day. Time limits must make clear to welfare recipients and caseworkers that welfare is a transitional system *not a way of life.*

The Chairman's mark undercuts the ability of the states to move recipients from welfare to work by reducing the funding available for work programs and for child care. It provides nothing to reward States for success in movement to work. Real welfare reform means giving states the incentives and resources to move people from welfare to work.

Despite the critical link between child care and work, the Senate bill would repeal three federal programs that provide direct child care assistance for more than 640,000 children. It would not only eliminate the child care program for low income working families who, without such assistance, risk falling onto welfare, but also eliminates child care for families making the transition from welfare to work. It cuts the child care people on welfare need to go to work, and working people need to stay off welfare in the first place. It defies common sense to take away child care and keep people from going to work.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children.

*Important
over these
that Admin
has fought for -
DBS, child care*

*Welcome
Hansel
Mimi
Plan*

Miscor moms?

If we are going to demand responsibility of mothers, we should demand responsibility of fathers too. That means welfare reform should include measures designed to identify the father and establish support orders in every case; find delinquent parents who move from job to job or state to state to avoid paying child support; speed up payments; and invoke tough penalties, like drivers license revocation, for nonpayment. We are pleased that the Senate bill includes strong child support enforcement provisions.

Protection of Children

without regard to pregnancy NO

Improvements

True reform should make it easier for poor children to grow into productive adults - not harder. Teenage parents should be eligible for cash assistance; ^{support} ~~help~~ however, should be conditioned on their staying at school, living at home, and identifying their child's father. Needy children should be assured basic protections wherever they live. School lunches, Food Stamps, and assistance to abused, disabled and neglected children should not be slashed under the guise of "welfare reform."

~~DELETE~~

The Administration is concerned that the proposed legislation puts many children at risk of serious hardship, through its deep funding reductions for programs assisting low-income families. The legislation includes a deeply troubling combination of cuts in cash benefits for children, including an arbitrary benefit cutoff after five years of welfare receipt, incentives for states to cut benefits, deny eligibility and curtail services, and cuts in Supplemental Security Income benefits for children.

True State Flexibility and Responsibility

The Administration applauds the creativity and responsiveness of states, and has encouraged state welfare reforms tailored to unique circumstances and needs. National welfare reform should expand opportunities for state flexibility. True welfare reform requires establishing a national framework and providing resources and incentives to states to improve their performance. We will not achieve real welfare reform or true state flexibility if Congress simply gives the states more burdens and less money, and fails to make work and responsibility the law of the land.

Protection for 27 million who are already homeless

The Administration is concerned that the fixed block grant in the proposed legislation makes inadequate allowances for potential growth in the need for cash assistance because of economic downturn, population growth or unpredictable emergencies. By failing to respond to the changing needs of states, it poses a danger that many growing or economically distressed states will not be able to meet the needs of their people, and will be unable to provide the child care and other supports necessary to move recipients into work. The critical role that the current structure plays in providing economic stability will be lost.

The Administration is also very concerned that the proposed legislation contains no

requirements or incentives for the states to maintain their own funding for cash assistance, child care and supports for work. There is a serious danger that states will "race to the bottom" in an attempt to save state dollars or to deter migrants from other states, by cutting eligibility, benefits, and assistance to working families. Welfare reform is a joint responsibility of the federal government and the states. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the states.

In short, while the Chairman's mark espouses goals for the reform of welfare--work, parental responsibility, true state flexibility and the protection of children--that the Administration and the American people share, the specific legislation still falls short in fundamental ways. Real welfare reform would include:

- o Incentives ^{advances} to reward states for moving people from welfare to work;
- o Work requirements for recipients and the child care people need to go to work and stay off welfare;
- o Protections for states in the event of population growth, disaster, or economic downturn;
- o Requirements and incentives for states to maintain their stake in welfare reform; and
- o The toughest possible child support enforcement.

There are alternative approaches to reform that achieve our mutual goals in more constructive and accountable ways. The Administration reiterates its commitment to serious welfare reform and its desire to work cooperatively with Congress to achieve it.

The Office of Management and Budget advises that there is no objection to transmittal of this report to Congress.

Sincerely,

Donna E. Shalala



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary
for Legislation

Washington, D.C. 20201

May 22, 1995

TO : David Ellwood/Wendell Primus
Mary Jo Bane/Ann Rosewater
Melissa Skofield
Michael Wald
John Monahan
La Varne Burton
Claudia Cooley

FROM : Helen Mathis/ASL

SUBJECT : Draft Letter Stating Administration's Views
on the proposed Senate Finance Committee Welfare
Reform proposal

Attached for your review is a draft letter stating the Administration's views on the Chairman's welfare reform mark under consideration by the Senate Finance Committee.

Time is of the essence. Please review the attached, and provide me (690-6311) with your comments and suggested edits by 12 Noon today, Monday, May 22.

Please be on the look out for another letter being circulated shortly to the Chairman of the Senate Labor and Human Resources Committee on the Administration's views for the Child Care Development Block Grant.

Your cooperation in expediting a quick turn around on these two letters is very much appreciated.

cc: Jerry Klepner
Rich Tarplin
Mary Bourdette

The Honorable Bob Packwood
Chairman
Committee on Finance
United States Senate

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance.

Welfare reform is a top priority for this Administration and for Americans without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, when Congress passed the Administration's economic plan, we cut taxes for 15 million working Americans and rewarded work over welfare. In 1994 we collected a record level of child support—\$10 billion. In the past two years, the Administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994. It included serious work requirements made real by opportunities for job placement, education, training, child care and supports to working people. It included a stringent set of provisions to ensure parental responsibility and reduce teen pregnancy. It increased state flexibility without sacrificing either federal or state responsibility for performance. It maintained a basic structure of protections for children.

The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. Unfortunately the Chairman's mark in its current form does not appear to offer the kind of real welfare reform that Americans in both parties expect. It is not serious about moving people from welfare to work. It misses opportunities to enhance parental responsibility. It poses serious dangers to children. It undermines the federal state partnership and fails to meet the federal government's obligation to ensure accountability and fairness. ?

APPLAUD FOR CSE + REMAINING STRINGS
BT...

Real Work Requirements

The central goal of welfare reform must be moving people from welfare to work. The Administration believes that ~~no adult who is able to work should receive welfare for an unlimited time without working.~~ The Administration believes that from the first day someone comes onto welfare, he or she should be required to participate in job search, job placement, education or training needed to move off welfare and into a job quickly. Those who are not willing to work should be removed from the rolls. Those who are willing to

anyone who can work should go to work as quickly as possible

(A) The Chairman's mark ^{correctly} wisely abandons some provisions the Admin strongly opposed in the House-passed bill, such as the denial of benefits to the children of young unwed mothers (and _____). Such a provision would punish children for their parents' mistakes, and the Senate should resist ^{any} efforts to reinstate it. But the ~~mark~~ still does not offer a

work should have the opportunities and the supports they need to work.

The Administration therefore has serious concerns about the Chairman's mark. The proposed legislation repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1998. It removes any real responsibility of state welfare systems to provide job placements, education, training, child care and other supports to move recipients from welfare to work. And it undercuts the ability of the states to do so by reducing the funding available for work programs and for child care.

little more to move people from welfare to work

The child care provisions are especially counterproductive. The bill provides no assurance of child care to recipients who work or are preparing to work—even if a state requires them to participate—or have moved off welfare for work. It repeals the dedicated funding for child care that was an important component of the Family Support Act. It appears to cut \$x billion in child care funding from the consolidated block grant. These provisions seriously undermine the ability of the bill to bring about welfare reform focused on work.

Not a way to work

cut a care people need to stay off welfare in 1st place work

IF THE BILL INCLUDES THE HOUSE PROVISION ABOUT COUNTING PEOPLE AS WORKING WHO LEAVE THE ROLLS, WE'LL NEED TO SAY SOMETHING ABOUT THAT IN THIS SECTION.

INCENTIVES

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children.

AT THIS POINT WE EITHER COMPLIMENT THEM OR BEAT THEM UP, DEPENDING ON WHAT'S IN THE BILL.

LOTT

Protection of Children

True welfare reform should make it easier for poor children to grow up to be healthy and productive adults, not harder. It should protect children from danger, and ensure that the safety net for abused and neglected children is firmly in place.

The Administration is concerned that the proposed legislation puts many children at risk of serious hardship, through its draconian cuts in the SSI program for children, its requirement of an arbitrary benefit cutoff after five years of welfare receipt, and its incentives for states to cut benefits, deny eligibility and curtail services.

Some of the children affected by welfare reform could well come into a system of child protection services that is already seriously overburdened and that is failing to provide the most essential services. The proposed legislation exacerbates the problems of an already troubled child welfare system by cutting the funding for child welfare services by \$x billion, by limited the ability of the states to access funding for pre-placement services, prevention, case management and staff training, and by essentially eliminating federal oversight of state systems that are already functioning poorly.

DO WE WANT TO SAY SOMETHING ABOUT IMMIGRANTS HERE? (NO)

True State Flexibility

The Administration applauds the creativity and responsiveness of states, and has encouraged state welfare reforms tailored to unique circumstances and needs. National welfare reform should expand opportunities for state flexibility while ensuring that states genuinely transform their welfare systems, by establishing a national framework and by providing resources and incentives to states to improve their performance. We will not achieve real welfare reform or true state flexibility if Congress simply gives the states more burdens and less money, and fails to make work and responsibility the law of the land.

The Administration is concerned that the fixed block grant in the proposed legislation makes inadequate allowances for potential growth in the need for cash assistance because of economic downturn, population growth or unpredictable emergencies. By failing to respond to the changing needs of states, it poses a danger that many growing or economically distressed states will not be able to meet the needs of their people, and will be unable to provide the child care and other supports necessary to move recipients into work. The critical role that the current structure plays in providing economic stability will be lost.

The Administration ~~is~~ also very concerned that the proposed legislation contains no requirements or even incentives for the states to maintain their own funding for cash assistance, child care and supports for work. There is a serious danger that states will "race to the bottom" in an attempt to save state dollars or to deter migrants from other states, by cutting eligibility, benefits, and assistance to working families. Welfare reform is a joint responsibility of the federal government and the states. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the states. ✓
If states
are going to use
federal tax dollars
they
need to
contribute
their share

In short, while the Chairman's mark espouses goals for the reform of welfare—work, parental responsibility, true state flexibility and the protection of children—that the Administration and the American people share, the specific legislation misses the mark in fundamental ways. It does not provide the child care and other supports that would make work expectations real. It provides neither the cushions nor the expectations that states need to bring about real reform. It puts millions of children at risk of serious harm.

There are alternative approaches to reform that achieve our mutual goals in far more constructive and accountable ways. The Administration reiterates its commitment to serious welfare reform and its desire to work cooperatively with Congress to achieve it.

Sincerely,

Donna E. Shalala

The Honorable Bob Packwood
Chairman, Senate Finance Committee
United States Senate
Washington, D.C. 20515

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance.

Welfare reform is a top priority for this Administration and for all Americans, without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, Congress passed the Administration's economic plan, cutting taxes for 15 million working Americans and rewarded work over welfare. In 1994 we collected a record level of child support--\$10 billion. In the past two years, the Administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994. It included serious work requirements made real by opportunities for job placement, education, training, child care and supports to working people. It included a stringent set of provisions to ensure parental responsibility and reduce teen pregnancy. It increased state flexibility without sacrificing either federal or state responsibility for performance. It maintained a basic structure of protections for children.

The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. The Chairman's mark is right to include important child support enforcement measures the Administration fought for in the House, which would more than double child support collections over the next five years. Moreover, it wisely abandons some mean-spirited provisions the Administration opposed in the House passed bill, such as the denial of benefits to children of young unwed mothers. It is wrong to punish children for their parent's mistakes, and the Senate should resist any effort to do so.

But, the Chairman's mark still ^{falls short of} ~~does not offer~~ the kind of real welfare reform that Americans in both parties expect. ^{It is not} ~~serious about moving people from welfare to work.~~ ^{It poses} ~~serious dangers to children.~~ It undermines the federal-state partnership and fails to meet the federal government's obligation

(This high and children)
It undermines the federal-state partnership and fails to meet the federal government's obligation to protect children at risk.

does little or nothing to move

It puts states at financial risk, and
It shifts costs to the states, and

undermines *burdening* *states*

to ensure accountability and results.

*Wrote at corr. of our approach
Tamu, Oregon*

Real Work Requirements

The central goal of welfare reform must be moving people from welfare to work. The Administration believes that anyone who can work should go to work as quickly as possible. From the first day someone comes onto welfare, he or she should be required to participate in job search, job placement, education or training needed to move off welfare and into a job quickly. The Administration also believes that those who are not willing to work should be removed from the rolls. Those who are willing to work should have the opportunities and the supports they need to work.

Real welfare reform is first and foremost about work -- and the system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States must have the necessary resources for child care, training, and work in order to get the job done. State bureaucracies should be rewarded for getting people to work or prepare for work -- not for cutting people from the rolls. Recipients must sign personal responsibility agreements, and move toward work and self-sufficiency from the very first day. Time limits must make clear to welfare recipients and caseworkers that welfare is a transitional system.

The Chairman's mark ^{*makes no real effort*} does ~~little or nothing~~ to move people from welfare to work. The proposed legislation repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1988. It removes any real responsibility of state welfare systems to provide job placements, education, training, child care and other supports to move recipients from welfare to work. And it undercuts the ability of the states to do so by reducing the funding available for work programs and for child care. Real welfare reform means giving states the incentives and resources to move people from welfare to work.

*round states
no incentives
not factors*

*It expects
nothing of recipients
for the first two
years, and allows
states to
pay for the
costs and its
initial
participati
on costs are
no weaker
than
current
law.*

Despite the critical link between child care and work, your bill would repeal three federal programs that provide direct child care assistance for more than 640,000 children. It would not only eliminate the child care program for low income working families who, without such assistance, risk falling onto welfare, but also eliminates child care for families making the transition from welfare to work. Moreover, it provides no assurance of child care for recipients participating in education or training activities - even if a state requires them to participate in order to receive their grant. It cuts the child care people on welfare need to go to work, and working people need to stay off welfare in the first place.

It defies common sense and stops work

IF THE BILL INCLUDES THE HOUSE PROVISION ABOUT COUNTING PEOPLE AS WORKING WHO LEAVE THE ROLLS, WE'LL NEED TO SAY SOMETHING ABOUT THAT IN THIS SECTION.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children.

Child support enforcement is a crucial part of welfare reform, because it sends a strong signal to young people about the responsibility of both parents to the children they bring into the world. If we're going to demand responsibility of mothers, we should demand responsibility of fathers too. That means welfare reform should include measures designed to identify the father in every case; find delinquent parents who move from job to job or state to state to avoid paying child support; speed up payments; and invoke tough penalties, like drivers license revocation, for nonpayment.

We are deeply concerned that recent Congressional budget reports call for states to charge a 15% percentage fee against child support collections for any money collected for parents not receiving AFDC in order to collect \$1 billion per year in fees. This is money collected from non-custodial parents and it rightly belongs to their children. Taking one billion dollars from children with custodial parents who have succeeded in staying off of welfare is unfair and counterproductive. It is little more than a tax on those custodial and non-custodial parents who are playing by the rules and meeting their responsibilities.

Protection of children

True reform should make it easier for poor children to grow into productive adults - not harder. Teenage parents should not be denied cash assistance - instead, help should be conditioned on their staying at school, living at home, and identifying their child's father. Needy children should be assured basic protections wherever they live. School lunches, Food Stamps, and assistance to abused, disabled and neglected children should not be slashed under the guise of "welfare reform."

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3
draconian cuts in the SSI program for children, its requirement of an arbitrary benefit cutoff after five years of welfare receipt, and its incentives for states to cut benefits, deny eligibility and curtail services. | 7

Some of the children affected by welfare reform could well come into a system of child protection services that is already seriously overburdened and that is failing to provide the most essential services. The proposed legislation exacerbates the problems of an already troubled child welfare system by cutting the funding for child welfare services by \$x billion, by limiting the ability of the states to access funding for pre-placement services, prevention, case management, permanency planning and staff training, and by essentially eliminating federal oversight of state systems that are already functioning poorly.

True State Flexibility

The Administration applauds the creativity and responsiveness of states, and has encouraged state welfare reforms tailored to unique circumstances and needs. National welfare reform should expand opportunities for state flexibility. True welfare reform requires establishing a national framework and providing resources and incentives to states to improve their performance. We will not achieve real welfare reform or true state flexibility if Congress simply gives the states more burdens and less money, and fails to make work and responsibility the law of the land.

The Administration is concerned that the fixed block grant in the proposed legislation makes inadequate allowances for potential growth in the need for cash assistance because of economic downturn, population growth or unpredictable emergencies. By failing to respond to the changing needs of states, it poses a danger that many growing or economically distressed states will not be able to meet the needs of their people, and will be unable to provide the child care and other supports necessary to move recipients into work. The critical role that the current structure plays in providing economic stability will be lost.

The Administration is also very concerned that the proposed legislation contains no requirements or incentives for the states to maintain their own funding for cash assistance, child care and supports for work. There is a serious danger that states will "race to the bottom" in an attempt to save state dollars or to deter migrants from other states, by cutting eligibility, benefits, and assistance to working families. Welfare reform is a joint responsibility of the federal government and the states. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the states.

In short, while the Chairman's mark espouses goals for the reform of welfare--work, parental responsibility, true state flexibility and the protection of children--that the Administration and the American people share, the specific legislation misses the mark in fundamental ways. It does not provide the child care and other supports that would make work expectations real. It provides neither the cushions nor the expectations that states need to bring about real reform. It puts millions of children at risk of serious harm.

still falls short

There are alternative approaches to reform that achieve our mutual goals in far more constructive and accountable ways. The Administration reiterates its commitment to serious welfare reform and its desire to work cooperatively with Congress to achieve it.

Sincerely,

Donna E. Shalala

Real welfare reform must include:

- y*
- y*
- y*
- y*



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary
for Legislation

Washington, D.C. 20201

TO: MARY JO BANE 401-4678
DAVID ELLWOOD 690-7383
BRUCE REED 456 5557
EMILY BROMBERG 401-4678
MELISSA SKOLFIELD 690-5673
JOHN MONAHAN 690-5672
KEN APFEL 395-5730

FROM: HHS/ASL STAFF (Jim Hickman 690-7627)

DATE: May 22, 1995

PAGES: 6 (including cover)

SUBJECT: Administration Views Letter on Senate Finance Committee
Welfare Reform Mark

NOTE: This draft was forwarded to OMB at 6:00 pm today in
anticipation of OMB clearance by Noon tomorrow.

EXECUTIVE OFFICE OF THE PRESIDENT

23-May-1995 12:51pm

TO: Kenneth S. Apfel
TO: Christopher J. Mustain

FROM: Bruce N. Reed
Domestic Policy Council

SUBJECT: Comments on Welfare Views letter

Here are my initial comments. I may have a few more after we see the actual mark.

p. 1, last graph, 1st sentence: change "does not offer" to "falls short of"

p. 1, last graph, 2nd, 3rd and 4th sentences: Replace the rest of the graph with the following: "It does little or nothing to move people from welfare to work. It is tough on children. It shifts costs to the states, and undermines our obligation to hold state bureaucracies accountable for results."

p. 2, 1st graph: After the first sentence ("The central goal ...") insert the following new sentences: "Work has always been at the heart of the President's approach to welfare reform over the last 15 years. Work was at the core of the Family Support Act. Work has been at the core of the welfare reform waivers this Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and more than two dozen other states. To be successful, welfare reform must reward, demand, and encourage work." The rest of the graph can become a new graph.

p. 2, 3rd graph, 1st sentence: Change "does little or nothing" to "makes no real effort".

p. 2, 3rd graph, last sentence: Add a new sentence before "Real welfare reform means..." that says "It expects nothing of recipients for the first two years, and nothing to reward states for success in moving them to work."

p. 2, last graph, last sentence: Add a new final sentence that says, "It defies common sense to take away child care and keep people from going to work."

p. 3, 3rd graph ("We are deeply concerned.."): THIS GRAPH HAS NO PLACE IN THE VIEWS LETTER -- IT'S NOT IN THE MARK. Delete it.

p. 3-4: Protection of Children Section: This whole section will have to be reviewed when we see the mark. Right now it makes criticisms that may not be valid, such as on teenage parents living at home and SSI cuts. In any case, we need to make the following changes:

-- Delete the sentence "Needy children should be assured basic protections wherever they live". That's too subject to misinterpretation, as Moynihan has shown us.

-- Put the teenage parents in the positive.

-- We can't use the word "draconian" for the SSI cuts if the bill is better than the House. Say "The cuts go further than necessary".

p. 5, 1st graph, 1st sentence: Change "misses the mark" to "still falls short".

p. 5, 1st graph: Delete the last 3 sentences -- we've already made these points.

p. 5, 2nd graph (or at the top of p. 2): Add a new graph that says: "Real welfare reform should include:

* Incentives to reward states for moving people from welfare to work, not cutting them off;

* Work requirements for recipients, and the child care people need to go to work and stay off welfare;

* Protections for states in the event of population growth, disaster, or economic downturn, and requirements and incentives to maintain their stake in welfare reform; and

* The toughest possible child support enforcement."

Thanks.

- REAL WORK (right away, - after 2y of real work)
- 20 hrs
- SANCTIONS - weaker than current law
- SSI ?
- Inaug?

The Honorable Bob Packwood
 Chairman, Senate Finance Committee
 United States Senate
 Washington, D.C. 20516

DRAFT

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance. As legislative language becomes available, the Administration may update or modify its positions. Welfare reform is a top priority for this Administration and for all Americans, without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, Congress passed the Administration's economic plan, cutting taxes for 15 million working Americans and forwarded work over welfare. In 1994 we collected a record level of child support--\$10 billion. In the past two years, the administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

our understanding of

As legislative language becomes available, the Administration may update or modify its positions.

rewarding

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994. It included various work requirements made real by opportunities for job placement, education, training, child care and supports to working people. It included a stringent set of provisions to ensure parental responsibility and reduce teen pregnancy. It increased state flexibility without sacrificing either federal or state responsibility for performance. It maintained a basic structure of protections for children.

The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. The Chairman's mark ~~is right to~~ include important child support enforcement measures the Administration fought for in the House ~~which would~~ more than double child support collections over the next five years. Moreover, it wisely abandons some mean-spirited provisions the Administration opposed in the House passed bill, such as the denial of benefits to children of young unwed mothers. It is wrong to punish children for their parent's mistakes, and the Senate should resist any effort to do so.

We are informed that

that

illegitimate bonus

But, the Chairman's mark ~~still does not offer~~ the kind of real welfare reform that Americans in both parties expect. ~~It is not serious about moving people from welfare to work. It poses serious dangers to children. It undermines the federal-state partnership and fails to meet the federal government's obligation~~

falls short of does not go far enough

as we understand it

(A) The bill's amendments represent the Admin has sought - 700s, decision quarters

Right direction, long way to go in getting work at the

INSERT A

~~to ensure accountability and results.~~

INSERT B

Real Work Requirements

INSERT C

~~The central goal of welfare reform must be moving people from welfare to work.~~ The Administration believes that anyone who can work should go to work as quickly as possible. ~~From the first day someone comes onto welfare, he or she should be required~~ to participate in job search, job placement, education or training needed to move off welfare and into a job quickly. The Administration also believes that those who are not willing to work should be removed from the rolls. Those who are willing to work should have the opportunities and the supports they need to work.

x

Real welfare reform is first and foremost about work -- and the system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States must have the necessary resources for child care, training, and work in order to get the job done. State bureaucracies should be rewarded for getting people to work or prepared for work -- not for cutting people from the rolls. Recipients must sign personal responsibility agreements, and move toward work and self-sufficiency from the very first day. Time limits must make clear to welfare recipients and caseworkers that welfare is a transitional system.

x

A (No improvement)

Real work?

We understand that

The Chairman's mark ~~does little or nothing~~ to move people from welfare to work. The proposed legislation repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1988. It removes any real responsibility of state welfare systems to provide job placement, education, training, child care and other supports to move recipients from welfare to work. And it undercuts the ability of the states to do so by reducing the funding available for work programs and for child care. Real welfare reform means giving states the incentives and resources to move people from welfare to work.

makes no real effort

does not provide the incentives or resources the means

such as

INSERT D

we understand the

Tone Down

Despite the critical link between child care and work, ~~the bill~~ would repeal three federal programs that provide direct child care assistance for more than 640,000 children. It would not only eliminate the child care program for low income working families who, without such assistance, risk falling onto welfare, but also eliminates child care for families making the transition from welfare to work. Moreover, it provides no assurance of child care for recipients participating in education or training activities - even if a state requires them to participate in order to receive their grant. It cuts the child care people on welfare need to go to work, and working people need to stay off welfare in the first place. It defies common sense to take away

NO

child care and keep people from going to work.

IF THE BILL INCLUDES THE HOUSE PROVISION ABOUT COUNTING PEOPLE AS WORKING WHO LEAVE THE ROLLS, WE'LL NEED TO SAY SOMETHING ABOUT THAT IN THIS SECTION.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children.

*Complement on
class, incorporate
Admin's plan*

~~Child support enforcement is a crucial part of welfare reform, because it sends a strong signal to young people about the responsibility of both parents to the children they bring into the world. If we're going to demand responsibility of mothers, we should demand responsibility of fathers too. That means welfare reform should include measures designed to identify those fathers in every case; find delinquent parents who move from job to job or state to state to avoid paying child support; speed up payments; and invoke tough penalties, like drivers license revocation, for nonpayment.~~

*and
establish
support
orders*

Minor minus?

~~We are deeply concerned that recent Congressional budget reports call for states to charge a 15% percentage fee against child support collections for any money collected for parents not receiving AFDC in order to collect \$1 billion per year in fees. This is money collected from non-custodial parents and it rightly belongs to their children. Taking one billion dollars from children with custodial parents who have succeeded in staying off of welfare is unfair and counterproductive. It is little more than a tax on those custodial and non-custodial parents who are playing by the rules and meeting their responsibilities.~~

Protection of Children

however,

True reform should ⁱⁿ make it easier for poor children to grow into productive adults - not harder. Teenage parents should ~~not be~~ be eligible ^{for} ~~denied~~ cash assistance - ~~indeed~~ help should be conditioned on their staying ~~in~~ school, living at home, and identifying their child's father. ~~Every child should be assured basic protection wherever they live~~ school lunches, food stamps, and assistance to abused, disabled and neglected children should not be slashed under the guise of "welfare reform."

Improvements

The Administration is concerned that the proposed legislation puts many children at risk of serious hardship ^{through its deep funding} reductions for programs assisting low-income families.

INSERT E

~~Some of the children affected by welfare reform would well come benefits~~
~~into a system of child protection services that is already~~
~~seriously overburdened and that is failing to provide the most~~
~~essential services. The proposed legislation exacerbates the~~
~~problems of an already troubled child welfare system by cutting~~
~~the funding for child welfare services by 50 percent, by limiting~~
~~the ability of the states to access funding for pre-placement~~
~~services, prevention, case management, permanency planning and~~
~~staff training. And by essentially eliminating federal oversight~~
~~of state systems that are already questioning poverty~~

INSERT F

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into a system of child protection services that is already
seriously overburdened and that is failing to provide the most for children.
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problems of an already troubled child welfare system by cutting and
the funding for child welfare services by 50 percent, by limiting
the ability of the states to access funding for pre-placement
services, prevention, case management, permanency planning and
staff training. And by essentially eliminating federal oversight
of state systems that are already questioning poverty

True State Flexibility and Responsibility

The Administration applauds the creativity and responsiveness of states, and has encouraged state welfare reforms tailored to unique circumstances and needs. National welfare reform should expand opportunities for state flexibility. True welfare reform requires establishing a national framework and providing resources and incentives to states to improve their performance. We will not achieve real welfare reform or true state flexibility if Congress simply gives the states more burdens and less money, and fails to make work and responsibility the law of the land.

Perhaps for 29 weeks, which is about halfway to the next

The Administration is concerned that the fixed block grant in the proposed legislation makes inadequate allowances for potential growth in the need for cash assistance because of economic downturn, population growth or unpredictable emergencies. By failing to respond to the changing needs of states, it poses a danger that many growing or economically distressed states will not be able to meet the needs of their people, and will be unable to provide the child care and other supports necessary to move recipients into work. The critical role that the current structure plays in providing economic stability will be lost.

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child protective services,

short

In short, while the Chairman's mark espouses goals for the reform of welfare--work, parental responsibility, true state flexibility and the protection of children--that the Administration and the American people share, the specific legislation ~~[misses the mark]~~ still falls in fundamental ways. ~~[It does not provide the child care and other supports that would make work expectations real. It provides neither the cushions nor the expectations that states need to bring about real reform. It puts millions of children at risk of serious harm.]~~

There are alternative approaches to reform that achieve our mutual goals in ~~[a]~~ more constructive and accountable ways. The Administration reiterates its commitment to serious welfare reform and its desire to work cooperatively with Congress to achieve it.

INSERT 6

Sincerely,

Donna E. Shalala

Insert A

In my view, the President states the case more effectively
It does little or nothing to move the people from welfare to work. *encompasses well* It is tough on children. It shifts costs to the States and undermines our obligation to hold State bureaucracies accountable for results.

Insert B (stand-alone paragraph)

The central goal of welfare reform must be moving people from welfare to work. Work has always been at the heart of the President's approach to welfare reform over the last 15 years. Work was at the core of the Family Support Act. Work has been at the core of the welfare reform waivers this Administration has granted, including innovative welfare-to-work programs in Oregon, Iowa, and more than two dozen other States. To be successful, welfare reform must reward, demand, and encourage work.

Insert C

We should build toward a system that requires people coming on to welfare from the first day

Insert D

It expects nothing of recipients for the first two years, and provides nothing to reward States for success in moving them to work.

Insert E

We understand that the legislation includes a deeply troubling combination of cuts in cash benefits for children, including:

Insert F

We understand that the Chairman's mark wisely continues adequate funding for foster care and adoption assistance benefits, due to growing caseloads. We also understand that the mark recognizes correctly that Federal oversight is important for ensuring that basic child protection are provided. However,

Insert G (stand-alone paragraph)

Real welfare reform should include:

- o Incentives to reward states for moving people from welfare to work, not cutting them off;
- o Work requirements for recipients and the child care people need to go to work and stay off welfare;
- o Protections for States in the event of population growth, disaster, or economic downturn, and requirements and incentives to maintain their stake in welfare reform; and
- o The toughest possible child support enforcement.

Note: Please add the OMB boilerplate language as the last or second to last paragraph: The Office of Management and Budget advises that there is no objection to the transmittal of this report to Congress.

May 24, 1995

Bruce,

Melissa sent back a note from the Hill -- she asks that the views letter include 2 sentences on "incentives for states to cut people off -- i.e., if people hit a time limit, there's no need for states to spend money on work and child care." She feels this is a better argument than incentives to cut benefits. I've relayed this to David, and he's going to try to put it in.

I haven't seen a final draft of the letter -- so I've tried to write these on our themes as much as possible. Please let me know if anything has changed --

Thanks,

Amy

The Honorable Bob Packwood
Chairman, Senate Finance Committee
United States Senate
Washington, D.C. 20515

DRAFT

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance.

Welfare reform is a top priority for this Administration and for all Americans, without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, Congress passed the Administration's economic plan, cutting taxes for 15 million working Americans and rewarded work over welfare. In 1994 we collected a record level of child support--\$10 billion. In the past two years, the Administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994. It included serious work requirements made real by opportunities for job placement, education, training, child care and supports to working people. It included a stringent set of provisions to ensure parental responsibility and reduce teen pregnancy. It increased state flexibility without sacrificing either federal or state responsibility for performance. It maintained a basic structure of protections for children.

The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. The Chairman's mark is right to include important child support enforcement measures the Administration fought for in the House, which would more than double child support collections over the next five years. Moreover, it wisely abandons some mean-spirited provisions the Administration opposed in the House passed bill, such as the denial of benefits to children of young unwed mothers. It is wrong to punish children for their parent's mistakes, and the Senate should resist any effort to do so.

But, the Chairman's mark still does not offer the kind of real welfare reform that Americans in both parties expect. It is not serious about moving people from welfare to work. It poses serious dangers to children. It undermines the federal-state partnership and fails to meet the federal government's obligation

to ensure accountability and results.

Real Work Requirements

The central goal of welfare reform must be moving people from welfare to work. The Administration believes that anyone who can work should go to work as quickly as possible. From the first day someone comes onto welfare, he or she should be required to participate in job search, job placement, education or training needed to move off welfare and into a job quickly. The Administration also believes that those who are not willing to work should be removed from the rolls. Those who are willing to work should have the opportunities and the supports they need to work.

Real welfare reform is first and foremost about work -- and the system must provide work-based incentives for states, caseworkers, and welfare recipients themselves. States must have the necessary resources for child care, training, and work in order to get the job done. State bureaucracies should be rewarded for getting people to work or prepare for work -- not for cutting people from the rolls. Recipients must sign personal responsibility agreements, and move toward work and self-sufficiency from the very first day. Time limits must make clear to welfare recipients and caseworkers that welfare is a transitional system.

The Chairman's mark does little or nothing to move people from welfare to work. The proposed legislation repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1988. It removes any real responsibility of state welfare systems to provide job placements, education, training, child care and other supports to move recipients from welfare to work. And it undercuts the ability of the states to do so by reducing the funding available for work programs and for child care. Real welfare reform means giving states the incentives and resources to move people from welfare to work.

Despite the critical link between child care and work, your bill would repeal three federal programs that provide direct child care assistance for more than 640,000 children. It would not only eliminate the child care program for low income working families who, without such assistance, risk falling onto welfare, but also eliminates child care for families making the transition from welfare to work. Moreover, it provides no assurance of child care for recipients participating in education or training activities - even if a state requires them to participate in order to receive their grant. It cuts the child care people on welfare need to go to work, and working people need to stay off welfare in the first place.

IF THE BILL INCLUDES THE HOUSE PROVISION ABOUT COUNTING PEOPLE AS WORKING WHO LEAVE THE ROLLS, WE'LL NEED TO SAY SOMETHING ABOUT THAT IN THIS SECTION.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children.

Child support enforcement is a crucial part of welfare reform, because it sends a strong signal to young people about the responsibility of both parents to the children they bring into the world. If we're going to demand responsibility of mothers, we should demand responsibility of fathers too. That means welfare reform should include measures designed to identify those father in every case; find delinquent parents who move from job to job or state to state to avoid paying child support; speed up payments; and invoke tough penalties, like drivers license revocation, for nonpayment.

We are deeply concerned that recent Congressional budget reports call for states to charge a 15% percentage fee against child support collections for any money collected for parents not receiving AFDC in order to collect \$1 billion per year in fees. This is money collected from non-custodial parents and it rightly belongs to their children. Taking one billion dollars from children with custodial parents who have succeeded in staying off of welfare is unfair and counterproductive. It is little more than a tax on those custodial and non-custodial parents who are playing by the rules and meeting their responsibilities.

Protection of Children

True reform should make it easier for poor children to grow into productive adults - not harder. Teenage parents should not be denied cash assistance - instead, help should be conditioned on their staying at school, living at home, and identifying their child's father. Needy children should be assured basic protections wherever they live. School lunches, Food Stamps, and assistance to abused, disabled and neglected children should not be slashed under the guise of "welfare reform."

The Administration is concerned that the proposed legislation puts many children at risk of serious hardship, through its

draconian cuts in the SSI program for children, its requirement of an arbitrary benefit cutoff after five years of welfare receipt, and its incentives for states to cut benefits, deny eligibility and curtail services.

Some of the children affected by welfare reform could well come into a system of child protection services that is already seriously overburdened and that is failing to provide the most essential services. The proposed legislation exacerbates the problems of an already troubled child welfare system by cutting the funding for child welfare services by \$2 billion, by limiting the ability of the states to access funding for pre-placement services, prevention, case management, permanency planning and staff training, and by essentially eliminating federal oversight of state systems that are already functioning poorly.

True State Flexibility

The Administration applauds the creativity and responsiveness of states, and has encouraged state welfare reforms tailored to unique circumstances and needs. National welfare reform should expand opportunities for state flexibility. True welfare reform requires establishing a national framework and providing resources and incentives to states to improve their performance. We will not achieve real welfare reform or true state flexibility if Congress simply gives the states more burdens and less money, and fails to make work and responsibility the law of the land.

The Administration is concerned that the fixed block grant in the proposed legislation makes inadequate allowances for potential growth in the need for cash assistance because of economic downturn, population growth or unpredictable emergencies. By failing to respond to the changing needs of states, it poses a danger that many growing or economically distressed states will not be able to meet the needs of their people, and will be unable to provide the child care and other supports necessary to move recipients into work. The critical role that the current structure plays in providing economic stability will be lost.

The Administration is also very concerned that the proposed legislation contains no requirements or incentives for the states to maintain their own funding for cash assistance, child care and supports for work. There is a serious danger that states will "race to the bottom" in an attempt to save state dollars or to deter migrants from other states, by cutting eligibility, benefits, and assistance to working families. Welfare reform is a joint responsibility of the federal government and the states. We owe it to our children to ensure that welfare reform provides opportunities and protects children in all the states.

In short, while the Chairman's mark espouses goals for the reform of welfare--work, parental responsibility, true state flexibility and the protection of children--that the Administration and the American people share, the specific legislation misses the mark in fundamental ways. It does not provide the child care and other supports that would make work expectations real. It provides neither the cushions nor the expectations that states need to bring about real reform. It puts millions of children at risk of serious harm.

There are alternative approaches to reform that achieve our mutual goals in far more constructive and accountable ways. The Administration reiterates its commitment to serious welfare reform and its desire to work cooperatively with Congress to achieve it.

Sincerely,

Donna E. Shalala



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary
for Legislation

Washington, D.C. 20201

WR - Formula

TO: MARY JO BANE 401-4678
DAVID ELLWOOD 690-7383
BRUCE REED 456-5557
CAROL RASCO 456-2878
EMILY BROMBERG 401-4678
ANN ROSEWATER 401-4678
WENDELL PRIMUS 690-6562
SUSAN BROPHY 456-6220
PAUL CAREY 456-2604
JANET MURGUA 456-6221
KEN APFEL 395-5730
JEREMY BEN-AMI 456-7028
AVIS LAVELLE 690-5673
MELISSA SKOLFIELD 690-5673
JOHN MONAHAN 690-5672

FROM: HHS/ASL STAFF (Jim Hickman 690-7627)

DATE: May 30, 1995

PAGES: 3 (including cover)

SUBJECT: Letter from Senator Kay Bailey Hutchinson (R-TX) and 29 Sunbelt Senators criticizing the allocation formula in the Packwood mark.

KAY BAILEY HUTCHISON
TEXAS

COMMITTEE
ARMED SERVICES
SMALL BUSINESS
COMMERCE, SCIENCE,
AND TRANSPORTATION

United States Senate

WASHINGTON, DC 20510-4304

May 23, 1995

The Honorable Robert Packwood
Chairman
Senate Committee on Finance
Washington, D.C. 20510

The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Senate Committee on Finance
Washington, D.C. 20510

Dear Bob and Pat:

As the Finance Committee begins mark-up of long overdue welfare reform legislation, we call your attention to a very serious flaw in the block grant allocation scheme included in H.R. 4, the House of Representatives welfare reform legislation.

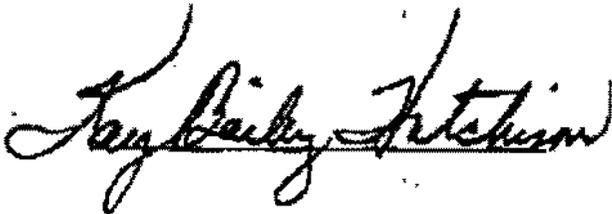
We are concerned because the House allocation formula essentially freezes funding for a five year period, and makes only token allowance for the substantial population growth projected for our states. If this approach were to be written into law, there would be severe budget and human consequences in our states.

The enclosed material from the Sunbelt Institute depicts how H.R. 4 would penalize high-growth states. Block grant funding would be locked in, in spite of rapidly changing patterns of need. This dissonance between need and funding would produce devastating results over a five year period.

We urge you and your Finance Committee colleagues to consider alternative apportionment approaches which would assure fair treatment for high-growth states. We recommend adoption of a funding formula that factors in population growth, as well as creation of a reserve fund to be allocated to high-growth states during the initial five year block grant period.

We appreciate your attention to this important matter of equity and fairness.

Sincerely,



Craig Nash

Jeff Nelson

Paul Jankovich

Wally Jansen

Les Kay

Strom Thurmond

Candell - ord

John Hancock

Jim Christen

Art Shroyer

Paul Hollings

Walt Byrum

Paul Cochran

Jay Rubin

Walt Lott

Bill Brown

James Holmes

Tommy

George

Richard Shelby

Bob Cantor

Jim Cooper

Sam

Chuck Robb

John Warner

Pat

W. Camp

Tom

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

LRM NO: 1412

FILE NO: 15

5/22/95

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 7

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet FORSGREN (for) *C. Mustain* (cc)
Assistant Director for Legislative Reference
OMB CONTACT: Chris MUSTAIN 395-3923
Legislative Assistant's line (for simple responses): 395-7362

URGENT

SUBJECT: HHS Proposed Report on Senate Finance Committee's Proposed Welfare Reform Legislation

DEADLINE: 11:00 am Tuesday, May 23, 1995

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: The Senate Finance Committee is scheduled to mark up welfare reform legislation on Wednesday, May 24th. The bill has not yet been introduced.

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URGENT

**RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM**

**LRM NO: 1412
FILE NO: 15**

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN 395-3923
Office of Management and Budget
Fax Number: 395-8148
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: HHS Proposed Report on Senate Finance Committee's Proposed Welfare Reform Legislation

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur
 _____ No Objection
 _____ No Comment
 _____ See proposed edits on pages _____
 _____ Other: _____
 _____ FAX RETURN of _____ pages, attached to this response sheet

The Honorable Bob Packwood
Chairman, Senate Finance Committee
United States Senate
Washington, D.C. 20515

DRAFT

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the Senate Committee on Finance.

Welfare reform is a top priority for this Administration and for all Americans, without regard to party. In the last two years, this Administration has put the country on the road to real welfare reform that emphasizes work, parental responsibility, state flexibility and the protection of children. In 1993, Congress passed the Administration's economic plan, cutting taxes for 15 million working Americans and rewarded work over welfare. In 1994 we collected a record level of child support--\$10 billion. In the past two years, the Administration has granted waivers to 29 states, so that over half the country is now carrying out significant welfare reform demonstrations that promote work and responsibility.

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The Administration has sought to make welfare reform a bipartisan issue. We still believe that it can and must be. The Chairman's mark is right to include important child support enforcement measures the Administration fought for in the House, which would more than double child support collections over the next five years. Moreover, it wisely abandons some mean-spirited provisions the Administration opposed in the House passed bill, such as the denial of benefits to children of young unwed mothers. It is wrong to punish children for their parent's mistakes, and the Senate should resist any effort to do so.

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Donna E. Shalala