

WR - SPECS
(SEMIFINAL)

WORK AND RESPONSIBILITY ACT
OF 1994

LEGISLATIVE SPECIFICATIONS - PART A

-- June 14, 1994 --

WORK AND RESPONSIBILITY ACT
OF 1994

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REVERSE

CHILD SUPPORT ENFORCEMENT BACKGROUND AND SUMMARY

48
In spite of the concerted efforts of Federal, State and local governments to establish and enforce child support orders, the current system fails to ensure that children receive adequate support from both parents. Recent analyses by The Urban Institute suggest that the potential for child support collections exceeds \$47 billion per year. Yet only \$20 billion in awards are currently in place, and only \$14 billion is actually paid. Thus we have a potential collection gap of about \$34 billion.

The signals the system sends are unmistakable: all too often noncustodial parents are not held responsible for the children they bring into the world. Less than half of all custodial parents receive any child support, and only about one-third of single mothers (mothers who are divorced, separated, or never married as opposed to remarried) receive any child support. Among never-married mothers, only 15 percent receive any support. The average amount paid is just over \$2,000 for those due support. Further, paternity is currently being established in only one-third of cases where a child is born out-of-wedlock.

The problem is primarily threefold: First, for many children born out-of-wedlock, a child support order is never established. Roughly 57 percent of the potential collection gap of \$34 billion can be traced to cases where no award is in place. Paternity, a prerequisite to establishing a support award, has not been established in about half of these cases.

Second, when awards are established, they are often too low, the value is eroded by inflation over time, and are not sufficiently correlated to the earnings of the noncustodial parent. Fully 22 percent of the potential collection gap can be traced to awards that were either set very low initially or never adjusted as incomes changed.

Third, of awards that are established, the full amount of child support is collected in only about half the cases. The remaining 21 percent in the potential collection gap is due to failure to collect on awards in place.

The typical child born in the U.S. today will spend time in a single parent home. The evidence is clear that children benefit from the financial support and interaction with two parents--single parents cannot be expected to do the entire job of two parents. If we cannot solve the problem of child support, we cannot possibly adequately provide for our children.

The Strategy: Build a child support system for the 21st century.

The proposal has three major elements:

- Establish Awards In Every Case
- Ensure Fair Award Levels
- Collect Awards That Are Owed

In addition, two other elements are proposed:

- Guarantee Some Level of Child Support--Child Support Assurance Demonstrations
- Supports and Nonfinancial Expectations for Noncustodial Parents

I. ESTABLISH AWARDS IN EVERY CASE

Current System

States currently establish paternity for only about one-third of the out-of-wedlock births every year and typically try to establish paternity only for women who apply for welfare, which sometimes occurs years after the birth of the child. Time is of the essence in paternity establishment; the longer the delay after the birth, the harder it is to ever establish paternity. Research indicates that between 65 percent and 80 percent of the fathers of children born out-of-wedlock are present at birth or visit the child shortly after birth. So beginning the paternity establishment process at birth or shortly thereafter is critical. Research also demonstrates that paternity establishment is cost effective. Even men who have low incomes initially often have quite significant earnings several years later, so the financial benefits to the children within a few years are significant. States are also hampered by a lack of incentives and cumbersome procedures for establishing paternities. Scientific testing for paternity has now become extremely accurate, yet many state systems fail to take full advantage of this scientific advancement.

Proposal

Under the proposal:

- *States will receive Federal funding to implement a paternity establishment program that expands the scope and improves the effectiveness of current State paternity establishment procedures. Under new Federal requirements, States must ensure that paternity is established for as many children born out-of-wedlock as possible, regardless of the welfare or income status of the mother or father, and as soon as possible following the child's birth. Each State's performance will be measured based not only upon cases within the State's current IV-D (child support) system, but upon all cases where children are born to an unmarried mother.*
- *States will be encouraged to improve their paternity establishment records through a combination of performance standards and performance-based incentives. To facilitate the process, States will be required to streamline paternity establishment processes and implement procedures that build on the successes of other States.*
- *Outreach efforts at the State and Federal levels will promote the importance of paternity establishment both as a parental responsibility and a right of the child.*
- *The responsibility for paternity establishment will be made clear for both the parents and the agencies. AFDC mothers must cooperate fully with paternity establishment procedures prior to the receipt of benefits under a new stricter definition of cooperation. "Cooperation" will be determined by the IV-D (child support) worker, not the IV-A (welfare) worker, through an expedited process. Those who refuse to cooperate will be denied AFDC benefits. Good cause exceptions will continue to be provided in appropriate circumstances. When an AFDC mother has cooperated, States will have one year to establish paternity or face financial penalties.*
- *Agencies will be given authority to administratively establish child support orders following appropriate guidelines.*

II. ENSURE FAIR AWARD LEVELS

Current System

Much of the gap between what is currently paid in child support in this country and what could potentially be collected can be traced to awards that were either set very low initially or are never adjusted as incomes change. All States are required to have guidelines, but the resulting award levels vary considerably. Awards are not updated for every case on a routine basis to reflect changed circumstances and AFDC and non-AFDC families do not receive similar treatment. Distribution and payment rules often place families' needs second.

Proposal

Under the proposal:

- *A National Commission will be set up to study the issue of child support guidelines and the advisability of establishing a national guideline to insure equitable awards;*
- *Universal, periodic, administrative updating of awards will be required for both AFDC and non-AFDC cases to ensure that awards accurately reflect the current ability of the noncustodial parent to pay support; and*
- *Revised distribution and payment rules will be designed to strengthen families. For those leaving welfare for work, arrearages will be paid to families first and arrearages owed to the State will be forgiven if the family unites or reunites in marriage.*

III. COLLECT AWARDS THAT ARE OWED

Current System

Enforcement of support is handled by State and local IV-D agencies, with tremendous state variation in terms of structure and organization. Cases are too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency. Many enforcement steps require court intervention, even when the case is routine. And even routine enforcement measures often require individual case processing rather than relying upon automation and mass case-processing. States are often not equipped with the necessary enforcement tools--tools that have proven successful in other States--to insure that people do not escape their legal and moral obligation to support their children.

When payments of support by noncustodial parents or their employers are made, they go to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial parent population, the need for one, central state location to collect and distribute payments in a timely manner has grown. Also, the ability to maintain accurate records that can be centrally accessed is critical. Computers, automation and information technology, such as those used by business, are rarely used to the extent necessary.

Welfare and non-welfare cases are handled differently, with less help for poor and middle class women outside the welfare system. States require a written application, and often a fee, in order to provide enforcement services to a non-welfare parent. The incentives built into the system mean that non-welfare cases often receive second-class services.

The Federal government currently has a role in enforcement through tax intercepts and full collection programs by the IRS and operation of the Federal Parent Locator Service (FPLS) by the Office of Child Support Enforcement (OCSE). Given that about 30 percent of the current caseload involves interstate cases and that we live in an increasingly mobile society, the need for a stronger federal role in location and enforcement has grown, particularly in interstate cases.

Through direct Federal matching, the Federal government currently pays 66 percent of most State and local program costs with a complicated incentive formula which caps the incentive for non-AFDC cases. There is almost universal agreement that the current funding and incentive structure fails to achieve the right objectives. In addition, existing audit procedures involve too many technical requirements and serve to address a State's deficiencies after the fact. Too little technical assistance is provided to States before problems occur.

Proposal

Under the proposal:

- *The State based system will continue, but with bold changes which move the system toward a more uniform, centralized and service oriented program. All States will maintain a State staff in conjunction with a central registry and centralized collection and disbursement capability. The State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain enforcement remedies at the State level administratively. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. For States that opt to use local offices, this will supplement, but not replace, local enforcement actions.*
- *States will be required to establish a Central State Registry for all child support orders established in that State. The registry will maintain current records of all support orders and serve as a clearinghouse for the collection and distribution of child support payments. This will be designed to vastly simplify withholding for employers as well as insure accurate accounting and monitoring of payments.*
- *Welfare and non-welfare distinctions will be largely eliminated and all cases included in the central registry will receive child support enforcement services automatically, without the need for an application. Certain parents, provided that they meet specified conditions, can choose to be excluded from payment through the registry.*
- *The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Clearinghouse (NC) will be established consisting of three components: an expanded Federal Parent Locator Services (FPLS), the National Child Support Registry, and the National Directory of New Hires.*
- *Federal technical assistance will be expanded to prevent deficiencies before they occur. While penalties will still be available to ensure that States meet program requirements, the audit process will emphasize a performance based, "state friendly" approach.*
- *The entire financing and incentive scheme will be reconstructed offering States a higher Federal match and new performance-based incentive payments geared toward desired outcomes.*

- *New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.*
- *IV-D agencies will be able to quickly and efficiently take enforcement action when support is not being paid. IV-D agencies will use expanded access and matching with other state data bases to find location, asset and income information and will be provided administrative power to take many enforcement actions. A variety of tough, proven enforcement tools will also be provided.*

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT – CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS

Current System

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Enforcement and Assurance is a program that will seek to combine a dramatically improved child support enforcement system with the payment of a minimum child support payment so that the custodial parent could count on some minimum level of support even if the noncustodial parent is unable to pay. Currently, no state has such a program, although the Child Assistance Program (CAP) in New York State has many similar features. Many States have indicated a strong interest in implementing such a program if they could receive some federal assistance.

Proposal

- *State demonstrations encompassing a variety of different child support assurance approaches.*

V. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONCUSTODIAL PARENTS

Current System

Issues concerning child support enforcement and issues concerning non-custodial parents cross-cut to a great degree. The well-being of children who live with only one parent would be enhanced if emotional and financial support were provided by both of their parents. Yet, the needs and concerns of noncustodial parents are often ignored under the present system. Instead of encouraging noncustodial parents to remain involved in their children's lives, the system often drives them away.

Proposal

Under the proposal:

- *The system will focus more attention on this population and send the message that "fathers matter." The child support system, while getting tougher on those that can pay but refuse to do so, will also be fairer to those noncustodial parents who show responsibility towards their children. Some of the elements above will help. There*

will be better tracking of payments to avoid build-up of arrearages and a simple administrative process for modifications of awards. Downward modifications of awards will be made when income declines so that these parents are not faced with awards that they cannot pay. Paternity actions will stress the importance of getting fathers involved earlier in the child's life.

In addition:

- *Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education and enforcement.*
- *States will have the option to use a portion of JOBS program funding for training and work readiness programs for noncustodial parents with children receiving AFDC.*
- *States will have the option to use a portion of WORK program funding for noncustodial parents whose children are receiving AFDC or have arrearages owed to the State for past due child support. States could choose to make participation by non-custodial fathers mandatory or voluntary.*
- *Funding will be made available for Paternity and Parenting Demonstration grants will be made to selected states and/or community based organizations to develop and implement a noncustodial parent (fathers) component for existing program for high risk families (e.g., Healthy Start, Teen Pregnancy and Prevention) to promote responsible parenting, including the importance of paternity establishment and economic security for children and the development of parenting skills.*

Child Support Enforcement Proposal [Title VI]

I. ESTABLISH AWARDS IN EVERY CASE

The first step in ensuring that a child receives financial support from the noncustodial parent is the establishment of a child support award. This is normally done through a legal proceeding to establish paternity or at a legal proceeding at the time of a separation or divorce. States currently receive Federal funding for paternity establishment services provided through the IV-D agency. This proposal expands the scope and improves the effectiveness of current State paternity establishment procedures. States are encouraged to establish paternity for as many children born out-of-wedlock as possible, regardless of the welfare or income status of the mother or father and as soon as possible following the child's birth. This proposal further requires more outreach about paternity establishment to stress that having a child is a two-parent responsibility. Building on the President's recent mandate for in-hospital paternity establishment programs enacted as part of the Omnibus Budget and Reconciliation Act (OBRA) of 1993, it further encourages nonadversarial procedures to establish paternity as soon as possible following the child's birth, streamlines procedures surrounding genetic parentage testing, and requires efforts to remove barriers to interstate paternity establishment.

Paternity Performance and Measurement Standards

Under current law, state performance is only measured against those cases in the IV-D child support system that need paternity established. Children are often several years old or older by the time they enter the IV-D system (normally when the mother applies for welfare). Research shows that the longer the paternity establishment process is delayed, the less likely it is that paternity will ever be established, so it is important to start early, before a mother goes on welfare.

Under the proposal, each State's paternity establishment performance will be measured based not only upon cases within the State's current IV-D child support system, but upon all cases where children are born to an unmarried mother. States will then be encouraged to improve their paternity establishment for all out-of-wedlock births through performance-based incentives. (Current paternity establishment performance standards for IV-D cases will also be maintained.)

- (1) *Each State will be required, as a condition of receipt of Federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record:*
 - (a) *all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and*
 - (b) *all paternities established for the out-of-wedlock births in the State during that year.*
- (2) *The Secretary shall prescribe by regulation the acceptable methods for determining the denominator and the numerator of the new paternity establishment performance measure with a preference for actual number counts rather than estimates.*

Financial Incentives for Paternity Establishment

In order to encourage States to increase the number of paternities established, the Federal government will provide performance-based incentive payments to States based on improvements in each State's paternity establishment percentage. The incentive structure will reward the early establishment of paternity so that States have both an incentive to get paternities established as quickly as possible and an incentive to work older cases. (See also State Paternity Cooperation Responsibilities and Standards, p. 11). Finally, current regulations establishing timeframes for establishing paternity will be revised since the administrative procedures required under the proposal will allow cases to be processed more quickly.

- (1) *Federal Financial Participation rate (FFP) will be provided for all paternity establishment services provided by the IV-D agency regardless of whether the mother or father signs a IV-D application.*
- (2) *Performance-based incentives will be made to each State in the form of increased FFP of up to 5 percent. The incentive structure determined by the Secretary will build on the performance measure so that States that excel will be eligible for incentive payments.*
- (3) *At State option, States may experiment with programs that provide financial incentives to parents to establish paternity. The Secretary will additionally authorize up to three demonstration projects whereby Federal Financial Participation is available for financial incentives to parents for establishing paternity.*
- (4) *The Secretary will issue regulations establishing revised timeframes for establishing paternity.*

Streamlining the Paternity Establishment Process

Encouraging Early Establishment of Paternity

Very little outreach is currently conducted about the importance and mechanics of establishing paternity in public health related facilities (e.g. prenatal clinics or WIC clinics), even though these facilities have significant contact with unmarried pregnant women. For example, in 1990, less than 1 percent of all counties reported they conducted outreach about paternity establishment in prenatal clinics. Conducting outreach in these public-health related facilities will not only broaden knowledge about the benefits of establishing paternity in general, but will also enhance the effectiveness of hospital-based programs. By the time the parents of an out-of-wedlock child are offered an opportunity to establish paternity in the hospital, the parent(s) will have already had an opportunity to obtain information about and reflect upon why they should establish paternity for their child.

As part of the effort to encourage the early establishment of paternity, the proposal allows State agencies and mothers to start the paternity establishment process even before the child is born. Since fathers are much more likely to have a continuing relationship with the mother at that time, locating the father and serving him with legal process is much easier. If the father does not acknowledge paternity, a genetic test can then be scheduled immediately after the birth of the child.

Experience has also shown that while a high proportion of fathers are willing to consent to paternity in the hospital, there are some who are unwilling to voluntarily acknowledge paternity outright but

would do so if genetic testing confirmed parentage. The hospital based paternity establishment process can be further streamlined by providing the opportunity for genetic testing right at the hospital. This is an efficient use of resources since hospitals are already fully equipped to obtain samples for these tests and blood tests are already performed on newborns at the hospital for other purposes.

As part of the State's voluntary consent procedures, each State must:

- (1) *require, either directly or under contract with health care providers, other health-related facilities (including pre-natal clinics, "well-baby" clinics, in-home public health service visitations, family planning clinics and WIC centers) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort should be coordinated with the U.S. Public Health Service. WIC program information shall also be available to the IV-D agency in order to provide outreach and services to recipients of that program.*
- (2) *require full participation by hospitals and other health-related facilities to cooperate and implement in-hospital paternity establishment programs as a condition of reimbursement of Medicaid.*

As part of a State's civil procedures for establishment of paternity, each State must:

- (1) *have statutes allowing the commencement of paternity actions prior to the birth of the child and procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet acknowledged paternity;*
- (2) *make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test.*

Simplifying Paternity Establishment

Currently, acknowledgements of paternity must create either a rebuttable or conclusive presumption of paternity. A rebuttable presumption means that even though someone has admitted paternity, they can later come in and offer other evidence to "rebut" their previous acknowledgement. This leaves many cases dangling for years and years. The parents believe in some cases that paternity is established when, in fact, it is not. Under the proposal, rebuttable presumptions "ripen" into conclusive presumptions after one year. A conclusive presumption acts as a judgment so that paternity has, in fact, been officially established. States are allowed some flexibility to tailor due process provisions.

The vast majority of paternity cases can be resolved without a trial once a genetic test is completed. Such tests are highly accurate and will effectively either exclude the alleged father or result in a paternity probability over 99 percent. Virtually all alleged fathers will admit to paternity when faced with genetic test results showing near certainty that he is the father. Currently in most States, however, changes in the legal process have not kept up with the changes in genetic testing technology, resulting in an unnecessary and inefficient reliance on the courts to handle the matters surrounding genetic tests.

Under the proposal, States will no longer have to start a legal proceeding through the courts and have a court hearing simply to have a genetic test ordered. States are also precluded from requiring a court hearing prior to ratification of paternity acknowledgments. These procedures will speed up

what is otherwise unnecessarily a very time consuming and labor intensive process. Another delay in the process occurs if the father fails to show for an ordered blood test. Often the IV-D agency must go back to court to get a default order entered, even though this process could be handled more efficiently on an administrative basis. Under the proposal, the IV-D agency will be given the authority to enter default orders without having to resort to the courts.

The Federal government currently pays 90 percent of the laboratory costs for paternity cases requiring genetic testing and will continue to do so. However, there is currently a great deal of variation at the State and local level regarding whether and under what circumstances the costs of genetic testing are passed on to fathers facing a paternity allegation. The proposal will eliminate the current variation by requiring all States to advance the costs of genetic tests, and then allowing recoupment from the alleged father in cases where he is determined to be the biological father of the child. By advancing the costs of genetic testing, there is no financial disincentive for alleged fathers to evade genetic testing. At the same time, requiring that an alleged father reimburse the state for the cost of genetic tests should he be determined to be the biological father eliminates any incentive for fathers to request genetic tests as a "stalling" technique and promotes voluntary acknowledgment of paternity when appropriate.

In the event that a party disputes a particular test result, the dispute should normally be resolved through further testing. The party should be given the opportunity to have additional tests but also be required to incur the costs of those additional tests. This will help to ensure that the opportunity to request additional testing is used only in cases where there is a legitimate reason to question the original test results and not used as a delaying tactic to avoid establishing paternity.

Currently, research on non-custodial fathers suggests that many fathers who might otherwise be open to the idea of establishing paternity are deterred from doing so because they may then be required to pay large amounts of arrears and/or face delivery-associated medical expenses in addition to ongoing support obligations. For low-income fathers with limited incomes, this poses a special problem. Providing the administrative agency/court the authority to forgive all or part of these costs will reduce disincentives to establish paternity in certain cases.

IV-D agencies currently are not encouraged to bring a paternity action forward on behalf of the putative father, even in cases in which the mother is not cooperating with the State in establishing paternity. In some states, fathers have no standing to bring paternity actions at all. If the primary goal is to establish paternity for as many children born out-of-wedlock as possible, IV-D agencies should be able to assist putative fathers as well as mothers in establishing paternity for a nonmarital child.

Under the OBRA of 1993 amendments, States are required to have expedited processes for paternity establishment in contested cases and each State must give full faith and credit to determinations of paternity made by other States. In order to further streamline the treatment of contested cases, the proposal provides that States can set temporary support in appropriate cases. This discourages defendants in paternity actions from contesting cases in order to simply delay the payment of support. The proposal also abolishes jury trials for paternity cases. Jury trials are a remnant from the time when paternity cases were criminal in nature. Almost two-thirds of the States still allow jury trials. While rarely requested, jury trials delay the resolution of cases and take a heavy toll on personnel resources. With the advent of modern scientific genetic testing, they serve very little purpose, as almost all cases will ultimately be resolved based on the results of the tests. The proposal also eases certain evidentiary rules, allowing cases to be heard without the need for establishing a foundation for evidence that is normally uncontroverted.

As part of a State's civil procedures for establishment of paternity, each State must:

- (1) *provide that acknowledgments of paternity create either a rebuttable or conclusive presumption of paternity. If a rebuttable presumption of paternity is created, States must provide that the presumption ripens into a conclusive legal determination with the same effect as a judgment no later than 12 months from the date of signing the acknowledgment. States may, at their option, allow fathers to move to vacate or reopen such judgments at a later date in cases of fraud or if it is in the best interest of the child.*
- (2) *provide administrative authority to the IV-D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test; and submit a sworn statement setting forth facts establishing a reasonable possibility of the requisite sexual contact, without the need for a court hearing prior to such an order. (State option remains as to whether to provide this administrative authority in cases where there is a presumed father under State law);*
- (3) *preclude the use of court hearings to ratify paternity acknowledgments;*
- (4) *provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing (State law continues to determine the criteria, if any, for opening default orders);*
- (5) *advance the costs of genetic tests, subject to recoupment from the putative father (subject to State pauper provisions) if he is determined to be the biological father of the child (Federal funding will continue at 90 percent for laboratory tests for paternity); if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests;*
- (6) *provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;*
- (7) *allow putative fathers (where not presumed to be the father under State law) standing to initiate their own paternity actions;*
- (8) *establish and implement laws which mandate, upon motion by a party, a tribunal in contested cases to order temporary support according to the laws of the tribunal's State if:*
 - (a) *the results of the parentage testing create a rebuttable presumption of paternity;*
 - (b) *the person from whom support is sought has signed a verified statement of parentage; or*
 - (c) *there is other clear and convincing evidence that the person from whom support is sought is the particular child's parent;*
- (9) *enact laws which abolish the availability of trial by jury for paternity cases; and*

- (10) *have and use laws that provide for the introduction and admission into evidence, without need for third-party foundation testimony, of pre-natal and post-natal birth-related and parentage-testing bills; and each bill shall be regarded as prima facie evidence of the amount incurred on behalf of the child for the procedures included in the bill.*

Paternity Outreach

Paternity establishment is recognized as an important strategy to combat the high incidence of poverty among children born out of wedlock. Yet to date, there has been no cohesive national strategy to educate the public on this issue. As a result, many parents do not understand the benefits of paternity establishment and child support and are unaware of the availability of services. This proposal calls for a broad, comprehensive outreach campaign at the Federal and State level to promote the importance of paternity establishment as a parental responsibility and a right of the children.

A combined outreach and education strategy will build on the Administration's paternity establishment initiative included in last year's budget law, OBERA of 1993, by underscoring the importance of paternity establishment for children born outside of marriage and the message that child support is a two-parent responsibility. States will be asked to expand their point of contact with unwed parents in order to provide maximum opportunity for paternity establishment and to promote the norm that paternity establishment is doing the right thing for their children.

Under the proposal:

- (1) *the Department of Health and Human Services, including the Public Health Service, and in cooperation with the Department of Education, will take the lead in developing a comprehensive media campaign designed to reinforce both the importance of paternity establishment and the message that child support is a "two parent" responsibility;*
- (2) *States will be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means, such as the distribution of written materials at schools, hospitals, and other agencies. These efforts should be coordinated with the U.S. Department of Education. States are also encouraged to establish pre-natal programs for expectant couples, either married or unmarried, to educate parents on their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients;*
- (3) *States will be required to make reasonable efforts to follow up with individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States, but States must have a plan for this outreach, which includes at least one post-hospital contact with each parent whose whereabouts are known (unless the State has reason to believe that such contact puts the child or mother at risk);*
- (4) *all parents who establish paternity, but who are not required to assign their child support rights to the State due to receipt of AFDC, must, at a minimum, be provided subsequently with information on the benefits and procedures for establishing a child support order and an application for child support services; and*

- (5) upon approval of the Secretary, Federal funding will be provided at an increased matching rate of 90 percent for paternity outreach programs.

Improving Cooperation among AFDC Mothers in the Establishment of Paternity

Cooperation Standards and Good Cause Exceptions

Currently, cooperating with the IV-D agency in establishing paternity is a condition of eligibility for AFDC and Medicaid recipients. Cooperation is defined as appearance for appointments (including blood tests), appearance for judicial or administrative proceedings, or provision of complete and accurate information. The last standard is so vague that "true" cooperation is often difficult to determine. Research suggests that a greater percentage of mothers know the identity and whereabouts of the father of their child than is reported to the IV-D agency. Better and more aggressive procedures can yield a much higher rate of success in eliciting information about the father from the mother than is currently achieved.

The proposal contains several provisions aimed at significantly increasing cooperation among AFDC mothers while at the same time not penalizing those who have fully cooperated with the IV-D agency but for whom paternity for their child is not established due to circumstances beyond their control. Increased cooperation will result in higher rates of paternity establishment.

Under the proposal:

- (1) *the new cooperation standards described herein will apply to all applications for AFDC or appropriate Medicaid cases for women with children born on or after 10 months following the date of enactment;*
- (2) *the initial cooperation requirement is met only when the mother has provided the State the following information:*
 - (a) *the name of the father; and*
 - (b) *sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process);*
 - (c) *if there is more than one possible father, the mother must provide the names of all possible fathers;*
- (3) *the continued cooperation requirement is met when the mother provides the State the following information:*
 - (a) *additional reasonable, relevant information which the mother can reasonably provide, requested by the State at any point;*

- (b) *appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or*
- (c) *appearance (along with the child) to submit to genetic tests;*
- (4) *good cause exceptions will be granted for non-cooperation on an individual case basis only if recipients meet the existing good cause exceptions for the AFDC program.*
- (5) *State IV-D workers must inform each applicant orally and in writing of the good cause exceptions available under current law and help the mother determine if she meets the definition. (Current exemptions for Medicaid eligibility for pregnant women are also maintained.)*

Cooperation Prior to Receipt of Benefits

Currently, many local IV-D agencies do not conduct intake interviews at all but rather rely on information (e.g., identity and location of the father) obtained by the IV-A agency. Those IV-D agencies that conduct intake interviews do not schedule them until after the mother has already applied for and been determined eligible to receive AFDC benefits. This practice reduces the incentive of AFDC mothers to cooperate with the IV-D agency in providing complete and accurate information about the father of their child because questions regarding cooperation do not arise until after eligibility for AFDC has been approved and the family is receiving benefits.

The proposal will increase the incidence of paternity establishment by making receipt of benefits conditional upon fulfilling the cooperation requirement; IV-D agencies will have to determine whether the cooperation requirement has been met prior to the receipt of benefits. States will be encouraged, but not required, to facilitate this change in procedure by either co-locating IV-A agencies and IV-D agencies or conducting a single IV-A/IV-D screening or intake interview. AFDC applicants who fail to fulfill the new cooperation requirement will be sanctioned.

- (1) *Applicants must cooperate in establishing paternity prior to receipt of benefits:*
 - (a) *using the new cooperation standards, an initial determination of cooperation must be made by the state IV-D agency within 10 days of application for AFDC and/or Medicaid;*
 - (b) *if the cooperation determination is not made within the specified timeframe, the applicant could not be denied eligibility for the above benefits based on noncooperation pending the determination;*
 - (c) *once an initial determination of cooperation is made, the IV-D agency must inform the mother and the relevant programs of its determination;*
 - (d) *individuals qualifying for emergency assistance or expedited processing could begin receiving benefits before a determination is made.*

- (2) *Failure to cooperate with the IV-D agency will result in an immediate sanction:*
- (a) *sanctions will be based on current law. States are required to inform all sanctioned individuals of their right to appeal the determination.*
 - (b) *If a determination is made that the custodial parent has met the initial cooperation requirement and the IV-D agency later has reason to believe that the information is incorrect or insufficient, the agency must:*
 - (i) *try to obtain additional information; and if that fails*
 - (ii) *schedule a fair hearing to determine if the parent is fully cooperating before imposing a sanction;*
 - (c) *if a mother fails to cooperate and is determined ineligible for benefits, but subsequently chooses to cooperate and takes appropriate action, Federal and State benefits will be immediately reinstated.*
 - (d) *if the determination results in a finding of noncooperation and the applicant appeals, the applicant could not be denied benefits based on noncooperation pending the outcome of the appeal. States can set up appeal procedures through the existing IV-A appeals process or through a IV-D appeals process.*
- (3) *States are encouraged to either co-locate IV-A and IV-D offices, provide a single interview for IV-A and IV-D purposes, or conduct a single screening process.*

State Paternity Cooperation Responsibilities and Standards

States will be held to new standards of responsibility for determining cooperation and ensuring that information regarding paternity is acted upon in a timely fashion. Under the proposal, if the mother meets this stricter cooperation requirement and provides full information, the burden shifts to the state to determine paternity within one year from the date the mother met the initial cooperation date. This is a shorter time period than what was required by regulation under the Family Support Act of 1988 and under the proposed OBRA of 1993 regulations.

If the state fails to establish paternity within the new specified one-year timeframe, it will lose Federal FFP for those cases. This FFP penalty does not exist under current law, and provides a significant incentive for states to work their incoming paternity cases in a timely fashion. A tolerance level is allowed for cases where paternity cannot be established despite the State's best efforts. Other paternity standards under existing law will be maintained to encourage States to continue to work all new and old IV-D cases.

For all cases subject to the new cooperation requirements:

- (1) *State IV-D agencies must either establish paternity if at all possible or impose a sanction in every case within one year from the date that the initial cooperation requirement is met; or*

- (2) *If the mother has met the cooperation requirements and the State has failed to establish paternity within the one year time limit, the State will not be eligible for FFP of the AFDC grant for those cases. (The Secretary will establish by regulation a method for keeping track of those cases. The FFP penalty will be based on an average monthly grant for cases where paternity is not established rather than by tracking individual cases.) The Secretary shall prescribe by regulation a tolerance level, for which there will be no penalty, for cases where paternity cannot be established despite the best efforts of the State. The tolerance level shall not exceed a percentage of the State's mandatory cases that need paternity established in any given year (25 percent in years 1 and 2, 20 percent in years 3 and 4, 15 percent in years 5 and 6, and 10 percent thereafter).*

Accreditation of Genetic Testing Laboratories

In 1976 a joint committee of the American Bar Association (ABA) and the American Medical Association (AMA) established guidelines for paternity testing. In the early 1980's, the Parentage Testing Committee of the American Association of Blood Banks (AABB), under a grant from the Federal Office of Child Support Enforcement, developed standards for parentage testing laboratories. These standards served as a foundation for an inspection and accreditation program for parentage testing laboratories. In addition, the Parentage Testing Committee developed a checklist for inspectors to use in determining if laboratories are in conformance with the standards required for AABB accreditation. These standards are subject to future revision as the state-of-the-art and experience dictate.

Using accredited laboratories ensures that laboratories do not take shortcuts, employ unqualified personnel, fail to perform duplicate testing or otherwise compromise quality control. Thirty-six of the fifty-four IV-D Child Support Enforcement agencies currently use solely AABB accredited laboratories for paternity testing. Under the proposal, the Secretary will authorize an organization such as the AABB or a U.S. agency to accredit laboratories conducting genetic testing and States will be required to use only accredited laboratories.

State law often fails to keep pace with scientific advances in genetic testing. For instance, while DNA testing for paternity cases is widely accepted in the scientific community, some state laws remain from a time prior to DNA testing. Such state laws may refer only to "HLA" or "blood" testing, so state agencies are unable to contract with laboratories using more modern techniques. Under the proposal, States must amend their laws to accept all accredited test results with the type of tests to be determined by the authorized organization or agency based upon what testing is widely accepted in the scientific community.

- (1) *The Secretary will authorize an organization or U.S. agency to accredit laboratories conducting genetic testing and the procedures and methods to be used; and*
- (2) *States are required to use accredited labs for all genetic testing and to accept all accredited test results.*

Administrative Authority to Establish Orders Based on Guidelines

Establishing paternity alone does not establish an obligation to pay support. An obligation to pay support is only created when the proper authority issues an order that support be paid (i.e., an "award" of support). Sometimes this is done when paternity is established and sometimes not--there are many state variations. States also vary in how they establish an award when someone enters the IV-D system in non-paternity cases. A few States provide administrative authority to establish child support orders. Many States require that a separate court action be brought.

Establishing support awards is critical to ensuring that children receive the support they deserve. Under the proposal, all IV-D agencies will have the authority to issue the child support award. This will vastly simplify and speed-up the process of getting an award in place. Adequate protections are provided to ensure that award levels are fair; the IV-D agency must base the award level on state guidelines and States are provided the flexibility to set up procedural due process protections. These administrative procedures apply to paternity and IV-D cases only. Legal separations and divorces may still be handled through the court process.

States can be exempted from this requirement if they can establish orders as effectively and efficiently through alternative procedures.

- (1) *States must have and use simple administrative procedures in IV-D cases to establish support orders so that the IV-D agency can impose an order for support (based upon State guidelines) in cases where:*
 - (a) *the custodial parent has assigned his or her right of support to the state;*
 - (b) *the parent has not assigned his or her right of support to the State but has established paternity through an acknowledgment or State administrative procedure; or*
 - (c) *in cases of separation where a parent has applied for IV-D services and there is not a court proceeding pending for a legal separation or divorce. At State option, States may extend such authority to all cases of separation and divorce, but they are not required to do so.*
- (2) *In all cases appropriate notice and due process as determined by the State must be followed.*
- (3) *Existing provisions for exempting States under section 466(d) of the Social Security Act are preserved.*

II. ENSURE FAIR AWARD LEVELS

National Commission on Child Support Guidelines

States are currently required to use presumptive guidelines in setting and modifying all support awards but have wide discretion in their development. While the use of state-based guidelines has led to more uniform treatment of similarly-situated parties within a state, there is still much debate concerning the adequacy of support awards resulting from guidelines. This is due to inadequate information on the costs of raising a child by two parents in two separate households and because disagreements abound over what costs (medical care, child care, non-minor and/or multiple family support) should be included in guidelines. The issue is further compounded by charges that individual State guidelines result in disparate treatment between States and encourage forum shopping.

To resolve these issues and ensure that guidelines truly provide an equitable and adequate level of support in all cases, the proposal creates a national commission to study and make recommendations on the desirability of uniform national guidelines or national parameters for setting guidelines.

- (1) *A twelve-member National Commission on Child Support Guidelines will be established no later than March 1, 1995, for the purpose of studying the desirability of a uniform, national child support guideline or national parameters for State guidelines.*
- (2) *The Chairman of the Senate Committee on Finance and the Chairman of the House Committee on Ways and Means shall appoint two members each, the Ranking Minority Members of such Committee shall appoint one member each, and the Secretary of Health and Human Services shall appoint six members. Appointments to the Commission must include a State IV-D Director and members or representatives of both custodial and non-custodial parent groups.*
- (3) *The Commission shall prepare a report not later than two years after the date of appointment to be submitted to Congress. The Commission terminates six months after submission of the report.*
- (4) *If the Commission determines that a uniform guideline should be adopted, the Commission shall recommend to Congress a guideline which it considers most equitable, taking into account studies of various guideline models, their deficiencies, and any needed improvements. The Commission shall also consider the need for simplicity and ease of application of guidelines as a critical objective.*

In addition, the Commission should study the following:

- (1) *the adequacy of existing state guidelines*
- (2) *the treatment of multiple families in State guidelines including:*
 - (a) *whether a remarried parent's spouse's income affects a support obligation;*
 - (b) *the impact of step and half-siblings on support obligations; and*

- (c) *the costs of multiple and subsequent family child raising obligations, other than those children for whom the action was brought;*
- (3) *the treatment of child care expenses in guidelines including whether guidelines should take into account:*
 - (a) *current or projected work related or job training related child care expenses of either parent for the care of children of either parent; and*
 - (b) *health insurance, related uninsured health care expenses, and extraordinary school expenses incurred on behalf of the child for whom the order is sought;*
- (4) *the duration of support by one or both parents, including the sharing of post-secondary or vocational institution costs; the duration of support of a disabled child including children who are unable to support themselves due to a disability that arose during the child's minority;*
- (5) *the adoption of uniform terms in all child support orders to facilitate the enforcement of orders by other States;*
- (6) *the definition of income and whether and under what circumstances income should be imputed;*
- (7) *the effect of extended visitation, shared custody and joint custody decisions on guideline levels; and*
- (8) *the tax aspects of child support payments.*

Modifications of Child Support Orders

Inadequate child support awards are a major factor contributing to the gap between the amount of child support currently collected versus the amount that could potentially be collected. When child support awards are determined initially, the award is set using current guidelines which take into account the income of the noncustodial parent (and usually the custodial parent as well). Although the circumstances of both parents' (including their income) and the child change over time, awards often remain at their original level. In order to rectify this situation, child support awards need to be updated periodically so that the amount of support provided reflects current circumstances. Recent research indicates that an additional \$7.1 billion dollars per year could be collected if all awards were updated (based upon the Wisconsin guidelines).

The Family Support Act of 1988 responded to the problem of inadequate awards by requiring States to review and modify all AFDC cases once every three years, and every non-AFDC IV-D case every three years for which a parent requests a review. Although a good start, there are several shortcomings with current policy.

First, requiring the non-AFDC custodial parent, usually the mother, to initiate review places a heavy burden on the mother to raise what is often a controversial and adversarial issue. Research indicates that a significant proportion of mothers would rather not "rock the boat" by initiating a review, even though it could result in a higher amount of child support. In order to eliminate this burden on the non-AFDC custodial parent and this inequitable treatment of AFDC and non-AFDC cases, child

support awards of non-AFDC children should be subject to automatic review and updating just as current law now provides for AFDC children.

Second, current review and modification procedures are extremely labor intensive, time-consuming, and cumbersome to implement. This problem is particularly pronounced in, although not limited to, States with court-based systems. Improvements in automated systems will help diminish some of the time delays and tracking problems currently associated with review and modification efforts. However, a simplified administrative process for updating awards is also needed for States to handle the volume of cases involved in a more efficient and speedier manner.

- (1) *States shall have and use laws that require the review of all child support orders included in the State Central Registry once every three years. The review may consist of an exchange of financial information through the State Central Registry. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. (States may, at their option, establish a threshold amount not to exceed 10 percent since entry of the last order.) States shall adjust each order in accordance with the guidelines unless both parents decline the adjustment in a writing filed with the State Central Registry.*
- (2) *States may set a minimum timeframe that runs from the date of the last adjustment that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent.*
- (3) *States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.*
- (4) *To ensure that all reviews can be conducted within the specified timeframe, States must have and use laws which:*
 - (a) *provide the child support agency through the State Central Registry administrative power to modify all child support orders and medical support orders, including those orders entered by a court (unless the State is exempted under section 466(d) of the Social Security Act);*
 - (b) *provide full faith and credit for all valid orders of support modified through an administrative process;*
 - (c) *require the child support agency to automate the review and modification process to the extent possible;*
 - (d) *ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which state has jurisdiction to modify an order;*
 - (e) *ensure that downward modifications as well as upward modifications must be made in all cases if a review indicates a modification is warranted;*

- (f) *simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also);*
 - (g) *provide administrative subpoena power for all relevant income information; and*
 - (h) *provide default standards for non-responding parents.*
- (5) *The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine if IRS income data can be used to facilitate the modification process.*

Distribution of Child Support Payments

Priority of Child Support Distribution

Families are often not given first priority under current child support distribution policies. The proposal will make such policies more responsive to the needs of families by reordering child support distribution priorities, giving States the option to pay current child support directly to families who are recipients and reordering Federal income tax offset priorities.

When a family applies for AFDC, an assignment of support rights is made to the State by the custodial parent. Child support paid (above the first \$50 of current support) is retained by the State to reimburse itself and the Federal government for AFDC benefits expended on behalf of that family. When someone goes off public assistance, payments for support obligations above payment of current support (i.e., arrearages) may be made to satisfy amounts owed the State and the family. States currently have discretion to either pay these child support arrearages first to the former AFDC family or to use such arrearage payments to recover for past unreimbursed AFDC assistance. Only about 19 States have chosen to pay the family arrearages first for missed payments after the family stops receiving AFDC benefits.

The proposed change will require all States to pay arrearages due to the family before reimbursing any unreimbursed public assistance owed to the State. Such a change will strengthen a families post-AFDC self-sufficiency. Families often remain economically vulnerable for a substantial amount of time after leaving AFDC; about 40 percent of those who leave return within a year and another 60 percent return within two years. Ensuring that all support due to the family during this critical transition period is paid to the family can mean the difference between self-sufficiency or a return to welfare.

States that have already voluntarily implemented this policy believe that such a policy is more fair to the custodial family who now depends on payment of support to help meet its living expenses. States have also found it difficult to explain to custodial and non-custodial parents why support paid when a family has left welfare should go to reimburse the state arrearages first before arrearages owed the family are paid. If child support is about ensuring the well-being of children, then the children's economic needs should be taken care of before state debt repayment.

Public policy also ought to promote the establishment of two-parent families. Having two parents living together within marriage provides children with more emotional and financial support than having two parents living apart. Under current law, child support arrears are not dischargeable even if the parents marry or reconcile. In these circumstances, the family must pay back itself, or the

State, if the family was on AFDC. For families with no AFDC arrearages, such payments are illogical and inefficient; a check must be written by the family, sent to the IV-D agency, credited against the arrearage amount, and re-issued by the state back to the family. For families with AFDC arrearages, such payments are not re-issued to the family, but are be used to reduce the State and Federal debt. This can make low income families even poorer. Under the proposal, families who unite or reunite in marriage can have their arrearages suspended or forgiven if the family income is less than twice the Federal poverty guideline. Protections will be included to ensure that marriage (or remarriage) is not undertaken for the sole purpose of eliminating child support arrearages.

- (1) *States shall distribute payments of all child support collected in cases in which the obligee is not receiving AFDC, including moneys collected through a tax refund offset, in the following priority:*
 - (a) *to a current month's child support obligation;*
 - (b) *to debts owed the family (non-AFDC obligations); if any rights to child support were assigned to the State, then all arrearages that accrued after or before the child received AFDC shall be distributed to the family;*
 - (c) *subject to (2), to the State making the collection for any AFDC debts incurred under the assignment of rights provision of Title IV-A of the Social Security Act;*
 - (d) *subject to (2), to other States for AFDC debts (in the order in which they accrued); the collecting State must continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other State;*
- (2) *If the noncustodial and custodial parents unite or reunite in a legitimate marriage (not a sham marriage), the State must suspend or forgive collection of arrearages owed to the State if the reunited family's joint income is less than twice the Federal poverty guideline.*
- (3) *The Secretary shall promulgate regulations that provide for a uniform method of allocation/proration of child support when the obligor owes support to more than one family. All States must use the standard allocation formula.*
- (4) *Assignment of support provisions shall be consistent with (1) above.*

Treatment of Child Support for AFDC Families - State Option

With the exception of the \$50 pass-through, states may not pay current child support directly to families who are AFDC recipients. Instead child support payments are paid to the State and are used to reimburse the State for AFDC benefit payments. Many States have found that both AFDC recipients and noncustodial parents misunderstand and resent child support being used for state debt collection. Under waiver authority, Georgia has undertaken a demonstration to pay child support directly to the AFDC family and a number of other States have expressed interest in this approach. The proposal will allow states the option to pay child support directly to the AFDC family, thereby allowing States to choose the distribution policy that will work best in their state. The AFDC benefit amount is reduced in accordance with state policy to account for the additional family income. This

policy change makes child support part of a family's primary income and places AFDC income as a secondary source of support.

- (1) *At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income).*
- (2) *The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.*

III. COLLECT AWARDS THAT ARE OWED

Overview

Currently, enforcement of support cases is too often handled on a complaint-driven basis with the IV-D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one, and even routine enforcement measures often require individual case processing rather than relying upon automation and mass case processing.

Under the proposal, all States will maintain a central state registry and centralized collection and disbursement capability through a central payment center. State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain administrative enforcement remedies at the State level. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. States may, at their option, use local offices for cases that require local enforcement actions. State staff thus will supplement, but not necessarily replace, local staff.

The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NC) will be established to help track parents across state lines. The National Clearinghouse includes a national child support registry, the expanded FPLS and a national directory of new hires. The National Clearinghouse will serve as the hub for transmitting information between States, employers, and Federal and State data bases. Interstate processing of cases will be made easier through the adoption of uniform laws for handling these types of cases.

The proposal includes a number of child support enforcement tools—tools that have been proven effective in the best performing States. Finally, changes in the funding and incentive structure of the IV-D program and changes designed to improve program management and accountability are proposed.

STATE ROLE

Central State Registry

Currently, child support orders and records are often scattered through various branches and levels of government. This fragmentation makes it impossible to enforce orders on an efficient and organized basis. Also, the ability to maintain accurate records that can be centrally accessed is critical. Under the proposal, States will be required to establish a Central State Registry for all child support orders established or registered in that State. The registry will maintain current records of all the support orders and work in coordination with the Central Payment Center for the collection and distribution of child support payments. This will vastly simplify withholding for employers. The creation of central state registries was one of the major recommendations of the U.S. Commission on Interstate Child Support and is a concept supported by virtually all child support professionals and advocacy groups.

- (1) *As a condition of receipt of Federal funding for the child support enforcement program, each State must establish an automated central state registry of child support orders.*
- (2) *The registry must maintain a current record of the following:*
 - (a) *all present IV-D orders established, modified or enforced in the State;*
 - (b) *all new and modified orders of child support (IV-D and non-IV-D) established by or under the jurisdiction of the State, after the effective date of this provision; and*
 - (c) *at either parent's request, existing child support cases not included in the IV-D system on the effective date of the registry.*
- (3) *The State, in operating the child support registry, must:*
 - (a) *maintain and update the registry at all times;*
 - (b) *meet specified timeframes for submission of local court or administrative orders to the registry, as determined by the Secretary;*
 - (c) *receive out-of-state orders to be registered for enforcement and/or modification;*
 - (d) *record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central payment center;*
 - (e) *conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;*
 - (f) *program the statewide automated system to extract updates automatically of all case records included in the registry;*
 - (g) *provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;*
 - (h) *routinely match against other State data bases to which the child support agency has access;*
 - (i) *use a uniform identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;*
 - (j) *maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);*

- (k) *use technology and automated procedures in operating the registry wherever feasible and cost-effective;*
- (l) *ensure that the interest or late payment fees charged can be automatically calculated;*
- (m) *ensure that the registry has access to vital statistics or other information necessary to determine the new paternity performance measure. (If automated elsewhere, access to these other data bases should be automated as well); and*
- (n) *ensure that the system is capable of producing a payment history as determined by the Secretary.*

Option for Integrated State Registry

- (4) *States may, at their option, maintain a unified, integrated registry by connecting local registries through computer linkage. (Local registries must be able to be integrated at a cost which does not exceed the cost of a new single central registry.) Under this option, however, the State and State staff must still perform all of the activities described herein for central registries and must maintain a State Central Payment Center for collection and disbursement of payments.*

Automated Mass Case Processing and Administrative Enforcement Remedies

In most States, routine enforcement actions, which are necessary in thousands or tens of thousands of cases, are still handled on an individual case basis. Often these actions require court involvement in each individual case or, at the very least, initiation of the routine action at the local level. Such a process by its nature is slow and cumbersome, causing many cases to simply never receive the attention they deserve. A few States, such as Massachusetts, are handling routine enforcement actions by using mass case processing techniques and imposing administrative enforcement remedies through centralized case handling. Computer systems routinely match child support files of delinquent obligors against other data bases, such as wage reporting data and bank account data, and when a match is found can take enforcement action automatically without human intervention. The system automatically notifies the obligors of the actions being taken and offers an appeal process. The vast majority of obligors do not appeal, so the case proceeds routinely and the support is obtained and sent to the families due support.

The use of such mass case processing techniques and administrative remedies has significantly reduced the number of cases where the IV-D agency has to resort to contempt or other judicial measures. This also frees up staff to work paternity cases or other more labor intensive enforcement measures. The proposal requires all States to develop the capacity to handle cases using mass case processing and the administrative enforcement remedies.

- (1) *As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. "State staff" are staff that are employed by and directly accountable to the State IV-D agency (private contractors are allowed). (Where States have local staff,*

this supplements, but does not necessarily replace, local staff. Therefore, local staff are still provided where necessary.)

Specifically the State shall:

- (2) *monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;*
- (3) *maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;*
- (4) *administratively impose the following enforcement measures without need for a separate court order:*
 - (a) *order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;*
 - (b) *attach financial institution accounts (post-judgment seizures) without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);*
 - (c) *intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;*
 - (d) *attach public and private retirement funds in appropriate cases, as determined by the Secretary;*
 - (e) *attach unemployment compensation, workman's compensation and other State benefits;*
 - (f) *increase payments to cover arrearages;*
 - (g) *intercept State tax refunds; and*
 - (h) *submit cases for Federal tax offset.*
- (5) *In all cases, appropriate notice and due process as determined by the State must be followed but State laws and procedures must recognize that child support arrears are currently treated as judgments by operation of law and reducing amounts to money judgments is not a prerequisite to any enforcement.*

Centralized Collection and Disbursement Through a State Central Payment Center

Under current law, payments of support by noncustodial parents or by employers on behalf of noncustodial parents are made to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial population, the need for one, central location to collect and disburse payments in a timely manner has

grown. States vary regarding how the child support payments are routed. In some States, locally distributed child support payments stay at the local level, with the remainder going to the State for distribution. In other States, all the money is transmitted to the state and is then distributed to either the family or to the governmental entity receiving AFDC reimbursement. A few States are beginning to collect and distribute child support payments at the State level.

Collection and distribution practices vary in non-IV-D cases as well. Some States route the money through local clerks or courts. In other States the non-IV-D child support payments flow entirely outside of government, from the obligor or his or her employer directly to the custodial parent.

Under the proposal, payments made in all cases entered in the central registry are processed through a Central Payment Center, run by the State government as part of the Central Registry or contracted to a private vendor. (Parents may opt out of payment through the State Central Payment Center under certain conditions; see p. 29 for further detail.) This eases the burden on employers by allowing them to send withholdings to one location within the state instead of to several county clerks or agencies. In addition, distribution and disbursement is accomplished based on economies of scale, allowing for the purchase of more sophisticated processing equipment than many counties could individually purchase, ensuring speedy disbursement and central accountability in intercounty cases. State governments will be able to credit their AFDC reimbursement accounts quickly and parents who opt for direct deposit could have their share of the support almost immediately deposited.

- (1) *Through a fully automated process, the State Central Payment Center must:*
 - (a) *serve as the State payment center for all employers remitting child support withheld from wages; and*
 - (b) *serve as the State payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State Central Payment Center for payment processing by electronic funds transfer within 24 hours of receipt.*
- (2) *In fulfilling these obligations, the State Central Payment Center must:*
 - (a) *accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;*
 - (b) *generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;*
 - (c) *identify all payments made to the State Central Payment Center and match the payment to the correct child support case record;*
 - (d) *disburse all collections in accordance with priorities as set forth under the proposal;*

- (e) *disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;*
 - (f) *provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent promptly at the time it is received (exceptions by regulation for unidentified payments);*
 - (g) *maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;*
 - (h) *develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;*
 - (i) *accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and*
- (3) *In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.*
 - (4) *States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing are encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.*
 - (5) *States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.*
 - (6) *States must enact procedures providing that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.*

Eligibility for IV-D Enforcement Services

Under the existing system, child support services are provided automatically to recipients of AFDC, Medicaid and, in some cases, Foster Care Assistance. Other single parent families, however, must seek services on their own by making a written application to the IV-D agency. Further, they must pay an application fee unless the State elects to pay the fee for them. Women may be intimidated from initiating a request for services and many States view the written application requirement as an unnecessary bureaucratic step.

To foster an environment where routine payment of child support is inescapable without placing the burden on the custodial parent to take action, all cases included in the central registry (that is, all families with new and modified orders for support, all families currently receiving IV-D services and any other family desiring inclusion in the registry) will receive child support enforcement services

automatically, without the need for application. However, in situations where compliance with the order is not an issue, parents can opt to be excluded from payment through the central payment center. This essentially carries forward the flexibility provided under existing immediate wage withholding requirements.

- (1) *All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV-D system at the time of enactment could also request services through the State child support agency.*
- (2) *Under no circumstances may a State deny any person access to State child support services based solely on the person's nonresidency in that State or require the payment of any fees by a parent for inclusion in the central registry.*
- (3) *No fees or costs may be imposed on any custodial or noncustodial parent or other individual for application for IV-D child support services; no fees or costs may be imposed on any custodial parent for any child support enforcement services, including collections, provided by the IV-D child support agency. (Non-custodial parents may be charged fees or costs except where prohibited herein.)*

Opportunity to Opt-Out

- (3) *Parents with child support orders included in the central registry can choose to opt-out of payment through the central payment center if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved).*
- (4) *Parents who opt-out must file a separate written form with the agency signed by both parties, indicating that both individuals agree with the arrangement.*
- (5) *If the parents choose to opt-out of wage withholding and payment through the central payment center, the noncustodial parent fails to pay support, and the custodial parent notifies the agency for enforcement action, compliance will be monitored by the State thereafter.*

FEDERAL ROLE

National Clearinghouse (NC)

The National Clearinghouse will consist of four components, three of which have direct bearing on improving child support enforcement: the National Child Support Registry, the expanded FPLS, and the National Directory of New Hires. (The National Transitional Assistance Registry is not discussed in this section.) The National Clearinghouse shall operate under the direction of the Secretary of Health and Human Services.

National Child Support Registry

The Family Support Act of 1988 mandated the implementation and operation of a comprehensive, statewide, automated child support enforcement system in every State by October 1, 1995. Statewide automation will help correct some of the deficiencies associated with organizational fragmentation as well as alleviate another problem - ineffective case management. For interstate case processing, the Child Support Enforcement Network (CSENet), currently being implemented, is designed to link together statewide, automated systems for the purpose of exchanging interstate case data among States. While all States will eventually be linked through CSENet, no national directory or registry of all child support cases currently exists. A national registry in combination with statewide automated systems has the potential to greatly improve enforcement nationally, through improved locate and wage withholding, and to also improve interstate case processing.

Under the proposal, a National Child Support Registry will be operated by the Federal government to maintain an up-to-date record of all child support cases and to match these cases against other databases for location and enforcement purposes. The primary function of the Registry is to expedite matches with other major databases.

- (1) *The Federal government will establish a National Child Support Registry that maintains a current record of all child support cases based on an extract of information from each State's Central Registry. The National Registry will:*
 - (a) *contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent (or putative father) and the case identification number;*
 - (b) *interface with State Central Registries for the automatic transmission of case updates;*
 - (c) *match the data against other Federal data bases;*
 - (d) *point all matches back to the relevant State in a timely manner; and*
 - (e) *interface and match with National Directory of New Hires.*
- (2) *The Secretary shall determine the networking system, after considering the feasibility and cost, which may be any of the following:*
 - (a) *building upon the existing CSENet interstate network system;*
 - (b) *replacing the existing CSENet;*
 - (c) *integrating with the current SSA system; or*
 - (d) *integrating with the proposed Health Security Administration's network and data base.*
- (3) *An amount equal to two (2) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund the National Clearinghouse.*

National Directory of New Hires

A National Directory of New Hires, operated by the Federal government, will be created to maintain an up-to-date data base of all new employees for purposes of determining child support responsibility. Information will come from transmission of the W-4 form, which is already routinely completed or through some other mechanism as the employer chooses. Information from the data base will be matched regularly against the National Registry to identify obligors for automatic income withholding and the appropriate State will be notified of the match. This national directory will provide a standardized process for all employers and interstate cases will be processed as quickly as intrastate cases.

Currently, information about employees and their income is reported to State Employment Security Agencies on a quarterly basis. This data is an excellent source of information for implementing wage withholding as well as for locating the noncustodial parent to establish an order. A major drawback, however, is that this data is approximately three- to six-months old before the child support agency has access to it. A significant number of obligors delinquent in their child support change jobs frequently or work in seasonal or cyclical industries. Therefore, it is difficult to enforce child support through wage withholding for these individuals. At least ten States have passed legislation and implemented a process requiring employers to report information on new employees soon after hiring. Several others have introduced legislation for employer reporting.

The problem with continuing on the current path is that each State is taking a slightly different approach concerning who must report, what must be reported, and the frequency of reporting, etc. Also, while improving intrastate wage withholding, this approach does little to improve interstate enforcement. The time has come for more standardization as well as expansion through a national system for reporting new hire information. Many employers and the associations which represent them, such as the American Society for Payroll Management, are calling for a centralized, standardized single reporting system for new hire reporting to minimize the burden on the employer community. A National Directory of New Hires will significantly reduce the burden on employers, especially multi-state employers, as well as increase the effectiveness for interstate wage withholding.

- (1) *The Secretary of Health and Human Services shall operate a new National Directory of New Hires which maintains a current data base of all new employees in the United States as they are hired.*
- (2) *All employers are required to report information based on every new employee's W-4 form (which is already routinely completed) within 10 days of hire to the National Directory:*
 - (a) *employers may mail or fax a copy of the W-4 or use a variety of other filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions;*
 - (b) *information submitted must include: the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);*
- (3) *employers will face fines or civil penalties if they intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll.*

- (4) *The National Directory of New Hires shall:*
- (a) *match the data base against several national data bases on a periodic basis including:*
 - (i) *the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;*
 - (ii) *the National Child Support Registry (matching to occur at least every 48 hours); and*
 - (iii) *the Federal Parent Locate Service (FPLS);*

(all cases submitted to the National Child Support Registry and other locate requests submitted by the States shall be periodically cross-matched against the National Directory of New Hires);
 - (b) *notify the State Registry of any new matches within 48 hours including the individual's place of employment so that States can initiate wage withholding for cases where wages are not being withheld currently or take appropriate enforcement action; and*
 - (c) *retain data for a designated time period, to be determined by the Secretary.*
- (5) *The State Employment Security Agencies (SESAs) shall submit extracts of their quarterly wage reporting data to the National Directory of New Hires. The SESAs shall utilize a variety of automated means to transmit the data electronically to the National Directory of New Hires. The National Directory shall take appropriate measures to safeguard the privacy and unauthorized disclosure of the wage reporting data submitted by SESAs.*
- (6) *States shall match the hits against their central registry records at least every 48 hours and must send notice to employers (if a withholding order/notice is not already in place) within 48 hours of receipt from the National Directory of New Hires.*
- (7) *A feasibility study shall be undertaken to determine if the New Hire Directory should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created data bases.*

Expanded FPLS

States currently operate State Parent Locator Services (SPLS) to locate noncustodial parents, their income, assets and employers. The SPLS conducts matches against other state databases and in some instances has on-line access to other State databases. In addition, the SPLS may seek information from credit bureaus, the postal service, unions, and other sources. Location sources may vary from State to State depending on the individual State's law. One location source used by the SPLS is the Federal Parent Locator Service (FPLS). The FPLS is a computerized national location network operated by OCSE which obtains information from six Federal agencies and the State Employment Security agencies (SESAs).

In order to improve efforts to locate noncustodial parents, under the proposal, OCSE will significantly expand the Federal Parent Locate Services and make improvements in parent locator services offered at the Federal and State levels. The FPLS shall operate under the National Clearinghouse.

- (1) *The OCSE shall expand the scope of State and Federal locate efforts by:*
 - (a) *allowing States (through access to the FPLS and the National Child Support Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:*
 - (i) *the records of other State IV-D agencies and locate sources;*
 - (ii) *Federal sources of locate information in the same fashion; and*
 - (iii) *other appropriate data bases.*
 - (b) *requiring the child support agency to provide both ad-hoc and batch processing of locate requests, with ad-hoc access restricted to cases in which the information is needed immediately (such as with court appearances) and batch processing used to troll data bases to locate persons or update information periodically;*
 - (c) *for information retained in a State IV-D system, providing for a maximum 48 hours turnaround from the time the request is received by the State to the time information/response is returned; for information not maintained by the State IV-D system, the system must generate a request to other State locate data bases within 24 hours of receipt, and respond to the requesting State within 24 hours after receipt of that information from the State locate sources;*
 - (d) *broadening the definition of parent location to include the parents' income and assets;*
 - (e) *developing with the States an automated interface between their Statewide automated child support enforcement systems and the Child Support Enforcement Network (CSENet), permitting locate and status requests from one State to be integrated with intrastate requests, thereby automatically accessing all locate sources of data available to the State IV-D agency; and*
- (2) *States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;*
- (3) *The Secretary shall authorize:*
 - (a) *a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents seeking the location of their children and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and*

- (b) *a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.*
- (c) *demonstration grants to States to improve the interface with State data bases that show potential as automated locate sources for child support enforcement.*

Expanded Role of Internal Revenue Service

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases. This proposal focuses on strengthening the IRS role in child support enforcement in three areas: enhancing data exchange; expanding the tax refund offset program; and, improving the full collection process.

Enhancing Data Exchange Between IV-D Child Support and the IRS Data

The Internal Revenue Code currently provides access to certain tax information used by child support enforcement agencies. Simplifying this access to information will greatly enhance State enforcement efforts and the utility of the locate network. Accordingly, under the proposal the Secretary of the Treasury will establish procedures whereby States can more readily obtain access to IRS data.

- (1) *The Secretary of the Treasury shall institute procedures whereby States can more readily obtain access to IRS data (including 1099 data), if allowed by law, for the purposes of identifying obligors' income and assets. Safeguards must be in place to protect the confidentiality of the information.*

IRS Tax Refund Offset

Current statutory requirements for Federal tax refund interception set different criteria for AFDC and non-AFDC cases. One especially inequitable difference is that the tax refund offset is not available to collect past-due child support for non-AFDC children who have reached the age of majority, even if the arrearage accrued during the child's minority. The proposal will eliminate all disparities between AFDC and non-AFDC income tax refund offsets for child support collection purposes.

- (1) *The disparities between AFDC and non-AFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to an amount determined by the Secretary, and offsets shall be provided regardless of the age of the child for whom an offset is sought. Timeframes, notice and hearing requirements shall be reviewed for simplification.*

IRS Full Collections

Currently, the IRS full collection process (which may include seizure by the IRS of property, freezing of accounts, and other procedures) is available to States as an enforcement tool in collecting delinquent child support payments. While use of the IRS full collection process could be an effective enforcement remedy, especially in interstate cases, it is currently used only rarely, in part, because the current process is cumbersome and prohibitively expensive from the States' perspective. The IRS and HHS have recently undertaken a study to explore how to improve the IRS full collection process and to make recommendations regarding its expansion. As part of this study, 700 cases were certified to IRS for collection in September, 1993. These cases are being closely monitored and the data obtained will be used to make recommendations for improvement to the IRS Full Collection project, including the establishment of a new fee structure. The proposal will require the Secretary of Treasury to improve the full collection process by establishing a simplified and streamlined process, including the use of an automated collection process for child support debts.

- (1) *To improve the IRS Full Collection process, the Secretary of the Treasury shall:*
 - (a) *simplify the IRS full collection process;*
 - (b) *establish procedures to ensure that the process is expeditious and implemented effectively;*
 - (c) *explore the feasibility of the IRS using its automated tax collection techniques in child support full collection cases; and*
 - (d) *the IRS will not charge an extra submission fee if a State updates the arrears on an open case.*

INTERSTATE ENFORCEMENT

Currently, many child support efforts are hampered by States' inability to locate noncustodial parents and secure orders of support across State lines. New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.

Under current law, most States handle their interstate cases through the use of versions of the Uniform Reciprocal Enforcement of Support Act (URESA), promulgated in 1950 and changed in 1952, 1958 and 1968. Using URESA may result in the creation of several child support orders in different States (or even counties within the same state) for different amounts, all of which are valid and enforceable. Interstate income withholding, an administrative alternative to URESA, is not widely used and limits the enforcement remedy of withholding.

Under the proposal, States will be required to adopt verbatim URESA's replacement, the Uniform Interstate Family Support Act (UIFSA). UIFSA ensures that only one State controls the terms of the order at any one time. UIFSA, unlike URESA, includes a comprehensive long-arm jurisdiction section to ensure that as many cases stay in one State as is possible. Direct withholding will allow a State to use income withholding in interstate cases by serving the employer directly without having to go through the second State's IV-D agency. Additionally, States could quickly obtain wage information from out-of-state employers. Interstate locate through the National Clearinghouse should improve locate capability dramatically, by linking state agencies, Federal locate sources and the new hire data base.

We will also ask Congress to express its sense that it is constitutional to use "child-state" jurisdiction, which if upheld by the Supreme Court, will allow agencies to bring the child support case where the child resides instead of where the noncustodial parent lives if he or she has no ties to the child's state. This extends long arm jurisdiction's reach to all cases instead of just most cases. It would also eliminate arguments and court proceedings regarding jurisdiction.

While all States have implemented immediate wage withholding programs for child support payment, there are significant variances in individual State laws, procedures and forms. Those differences are significant enough to bog down the interstate withholding system. Even within States, forms and procedures may vary, resulting in slow or inaccurate case processing. The proposal will require the Secretary to promulgate regulations defining income and other terms so that income withholding terms, procedures and definitions are uniform. This will improve interstate wage withholding effectiveness and fairness and facilitate a more employer-friendly withholding environment. The net effect of UIFSA, direct and uniform withholding, national subpoenas, interstate lien recognition, interstate communication, and child-state jurisdiction is to almost eradicate any barriers that exist to case processing simply because the parents do not reside in the same state.

To facilitate interstate enforcement efforts, each State must have and use laws, rules and procedures that:

- (1) *provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;*
- (2) *require Social Security Numbers of all persons applying for a marriage license or divorce to be listed on the supporting license or decree;*
- (3) *require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;*
- (4) *adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform Interstate Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995 or within 12 months of passage, but in no event later than January 1, 1996;*
- (5) *give full faith and credit to all terms of any child support order (whether for past-due, currently owed, or prospectively owed support) issued by a court or through an administrative process which has jurisdiction under the terms of UIFSA;*
- (6) *provide that out-of-State service of process in parentage and child support actions must be accepted in the same manner as are in-State service of process methods and proof of service so if service of process is valid in either State it is valid in the hearing State;*
- (7) *require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued; in addition:*
 - (a) *presume for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or*

establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, in the absence of the obligor or obligee providing a new address;

- (b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;*
- (8) provide for intrastate transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for re-filing by the plaintiff or re-serving the defendant; require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and liens to have statewide effect for enforcement purposes;*
- (9) make clear that visitation denial is not a defense to child support enforcement and that nonsupport is not available as a defense when visitation is at issue;*
- (10) require States to require employers, as a condition of doing business in the State, to respond to requests by out-of-state IV-D agencies for individual income information pertaining to all private, State and local government employees for purposes of establishing and collecting child support.*

In addition, the Federal government shall:

- (1) make a Congressional finding that child-state jurisdiction is consistent with the Due Process clauses of the Fifth and Fourteenth Amendments, Section 5, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;

 - (a) test the constitutionality of this assertion of child-state jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;**
- (2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State or if all the parties consent to the State retaining jurisdiction;

 - (a) when no State has continuing exclusive jurisdiction when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;**
- (3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;*

- (a) *if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;*
- (b) *if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;*
- (c) *when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

 - (i) *a responsive pleading contesting jurisdictional control is filed in a timely basis in the nonhome State, and*
 - (ii) *an action in the home State is filed before the time has expired in the nonhome State for filing a responsive pleading;**
- (4) *provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order; in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply; and*
- (5) *provide that all employers can be served directly with a withholding order by any State, regardless of the State issuing the order; The Secretary shall develop a universal withholding form that must be used by all States.*

In addition:

- (1) *Section 466 of the Social Security Act will be amended to require regulations so that income withholding terms, procedures, forms and definitions of income for withholding purposes are uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;*

OTHER ENFORCEMENT MEASURES

Currently, State and Federal enforcement efforts are often hampered by cumbersome enforcement procedures that make even routine enforcement actions difficult and time consuming. In order to enable States to take more efficient and effective action when child support is not paid, the proposal requires States to adopt several additional proven enforcement tools and streamline enforcement procedures.

Routinized Lien-Placing Process on Motor Vehicles

Liens have two faces. They are either passive encumbrances on property that entitle the lienholder to money when the property changes owners, or they are proactive collection tools that force the obligor to relinquish the property to satisfy the child support debt. Under current law, States must have and use procedures to impose liens on personal and real property. However, the time consuming and cumbersome nature associated with the case-by-case judicial activity now required to impose liens is a major reason for their limited use in practice. Under the proposal, the process by which liens on motor vehicles are imposed will be made more routinized and efficient, resulting in an increase in child support collected. States will be required to set up a routine lien-placing process on motor vehicle titles, without the necessity of first acquiring writs from courts, on non-custodial parents who are delinquent in paying child support.

Universal Wage Withholding

Withholding child support directly from wages has proven to be one of the most effective means of ensuring that child support payments are made. Currently, all IV-D orders should generally be in withholding status if the parties have not opted out or a decisionmaker has not found good cause. IV-D orders entered prior to 1991 in which no one has requested withholding or the obligor has not fallen behind by one month's worth of support are the only orders that do not have to be in withholding status. Arrearage-triggered IV-D withholding requires prior notice in all but a handful of States. Non-IV-D orders entered after January 1, 1994 are subject to immediate withholding if the two opt-outs are not invoked. Other non-IV-D orders may be in withholding status, depending on if there are arrearages and whether the parties took the appropriate action to impose if the withholding State does not impose it automatically in non-IV-D cases.

While the patchwork of orders subject to withholding is gradually being filled in, one way to speed up the universality of withholding is to require withholding in all cases unless the parties opt out or a court finds good cause. As under current law, if an arrearage of one month of support accrues whether or not there is an opt out, withholding must be implemented; however, it should be implemented automatically without need of further court action in non-IV-D cases as well, and without need for notice prior to withholding in the arrearage-triggered cases. Universalizing withholding (except for opt outs) makes the system equal for the non-IV-D and the IV-D parent. It allows for the immediate implementation of withholding when an obligor begins a new job. Imposing withholding without prior notice gives the States the jump on collection, instead of waiting up to 45 days for resolution. In the very few cases in which withholding might be incorrectly imposed, a hearing will be immediately available to the aggrieved obligor to satisfy due process concerns and to ensure accurate withholding (if a phone call to the agency does not quickly resolve the dispute).

Access to Records

Access to current income and asset information is critical to tracking down delinquent noncustodial parents who are trying to escape their responsibilities. The need to petition the courts for information on the address, employer, and income of parents on a case-by-case basis impedes the ability of States to effectively carry out child support enforcement actions. Recognizing the value of timely and

systematic access to information, the proposal will require States to make the records of various agencies available to the child support agency on a routine basis, through automated and nonautomated means. In addition, the proposal will require that child support agencies be granted access to specific case-related financial institution records for location or enforcement action.

Reducing Fraudulent Transfer of Assets

A major problem in some child support cases occurs when an obligor transfers his or her assets to someone else to avoid paying support. To protect the rights of creditors, States have enacted laws under the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act to allow creditors to undo fraudulent transfers. Applying such laws to child support will provide equal protection to the support rights of custodial parents as applied to any other creditor and may deter obligors who are considering fraudulent transfer. The proposal will make it easier to take legal steps against parents who intentionally transfer property to avoid child support payment.

License Revocations

An effective enforcement tool recently implemented by a number of states is withholding or suspending professional/occupational licenses and, in some states, also standard driver's licenses of noncustodial parents owing past-due child support. States that have added this procedure to their arsenal of enforcement remedies have favorable perceptions about its effectiveness, noting that it has both increased the amount of arrearages collected and served as an incentive for noncustodial fathers to keep current in their monthly child support obligation. Often the mere threat of suspending a license is enough to get many recalcitrant obligors to pay. The proposal requires all states to adopt such laws while allowing State flexibility to tailor due process protections.

Statute of Limitations for Child Support Arrearages

Under current law, each state may decide when it no longer has the power to collect old debts. Usually invoking a state statute of limitations is done by the debtor, and is not automatic. Some state statute of limitations for child support debts are as short as seven years. Under the proposal, a uniform and extended statute of limitations for collecting child support debts of 30 years after the child's birth will be required. This ensures that a non-payor is less likely to forever escape payment simply because they have avoided payment in the short-term.

Interest on Arrearages

Child support debts are currently at a competitive disadvantage compared to commercial debts. While many States have the authority to apply interest to delinquent support, few routinely do so and thus there is no financial incentive for a noncustodial parent to pay support before paying an interest accruing debt. To raise the priority of child support debts to at least that afforded to other creditors, the proposal will require States to calculate and collect interest or late penalties on arrearages.

Expanded Use of Credit Reporting

Credit Bureaus can be an effective mechanism for collecting information needed to locate parents and establish awards at the appropriate level and for ensuring that child support payments are kept current. Under current law, credit report information may be used for locate and enforcement purposes. Agencies may not use credit reports for establishment or modification purposes, however. States are also not required to report arrearages upon a request from a credit bureau unless the arrearages are in excess of \$1000. (States may report, at state option, when a lesser amount is owed.) This proposal will give IV-D agencies access to all credit bureau information for consideration in establishing, modifying, and enforcing child support orders. Since credit reports are likely to fully disclose income generating activities, such reports can be extremely important in identifying assets and income needed to establish awards. Additionally, requirements for States to report child support arrears of more than one month would encourage non-custodial parents to stay current in their payment of support, because non-payment could jeopardize their credit rating. Many States have improved their credit reporting activities regarding child support arrearages. This proposal will ensure uniformity among the states and prevent any one state from becoming a safe-haven for non-paying parents.

Bankruptcy

Although a noncustodial parent obligated to pay support may not escape the obligation by filing bankruptcy, the ability to collect amounts due is hampered by current bankruptcy practices. One of the difficulties faced is that the filing of a bankruptcy action automatically "stays" or forbids various actions to collect past-due support. In order to continue child support collections, permission from the Bankruptcy Court must be granted to lift the automatic stay. Another obstacle is a requirement that the attorney handling the child support creditor's claim must either be a member of the Federal bar in the jurisdiction where the bankruptcy action is filed, appear by permission, or find alternative representation. In addition, child support obligations are often treated less favorably than other financial obligations such as consumer debts and, under a Chapter 13 bankruptcy proceeding, an individual debtor is allowed to pay off debts over an extended period of time--usually three to five years. Even though the current child support continues and arrearages cannot be forgiven through bankruptcy, the ability to collect these arrearages quickly can be thwarted when, as under current practice, a bankruptcy payment plan could require a different payment arrangement on support arrearages than that imposed by a court or administrative support process.

The proposal will eliminate these types of bankruptcy related obstacles to collecting child support. It will remove the effects of an automatic stay with respect to child support establishment, modification, and enforcement proceedings, require the establishment of a simple procedure under which a support creditor can file their claim with the bankruptcy court, treat unsecured support obligations as a second priority claim status, and require that the bankruptcy trustee recognize and honor an arrearage payment schedule established by a court or administrative decisionmaker. These changes will facilitate the uninterrupted flow of support to children in the event the obligor files for or enters into bankruptcy.

Federal Garnishment

Garnishment of Federal employees salaries and wages for child support was authorized prior to the requirement that all States have and use wage withholding procedures which do not require specific court or administrative authorization. The Federal garnishment statute was not changed to make its procedures consistent with the requirements for all other child support wage withholding. The proposal will simplify the implementation of child support wage withholding by requiring that the same procedures be used for Federal and non-Federal employees. The proposal also allows garnishment of military pay more consistent with other types of garnishable money.

Passports

Collecting child support from persons who have left the country is extremely difficult, even if the United States has a reciprocal agreement with the country in which the noncustodial parent currently resides. If there is no reciprocal agreement with that country, it is often virtually impossible to collect child support from the noncustodial parent. Under the proposal, passports and visas will not be issued for foreign travel for the most egregious cases in which support is owed--those owing over \$5,000 in past due support.

In order to enforce orders of support more effectively, States must have and use laws that:

- (1) *systematically impose liens on vehicle titles for child support arrearages using a method for updating the value of the lien on a regular basis or allowing for an expedited inquiry to and response for proof of the amount of arrears; provide an expedited method for the titleholder or the individual owing the arrearage to contest the arrearage or request a release upon fulfilling the support obligation; the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed on a vehicle title other than a purchase money security interest; in appropriate cases the agency shall have the power to execute on, seize, sell and distribute encumbered or attached property in accordance with State law;*
- (2) *require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;*
- (3) *empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date; sanction individuals who fail to obey a subpoena's command;*
- (4) *provide, at a minimum, that the following records are available to the State child support agency through automated or nonautomated means:*
 - (a) *recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;*

- (b) *real and personal property including transfers of property;*
 - (c) *State and local tax departments including information on the residence address, employer, income and assets of residents;*
 - (d) *publicly regulated utility companies and cable television operators; and*
 - (e) *marriages, births, and divorces of residents;*
- (5) *provide, at a minimum, the following records of State agencies are available to the State child support agency: the tax/revenue department, motor vehicle department, employment security department, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, and agencies administering public assistance. If any of these State data bases are automated, the child support agency must be granted either on-line or batch access to the data.*
- (6) *provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional;*
- (7) *provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facie case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;*
- (8) *require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding:*
- (a) *the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.*
 - (b) *the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.*
- (9) *suspend the driver's licenses, including any commercial licenses, of noncustodial parents who owe past-due child support:*
- (a) *the suspension shall be determined by the IV-D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a*

hearing, stay of the order under appropriate circumstances, and the circumstances under which the suspension may be lifted;

- (b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.*
- (10) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.*
- (11) calculate and collect interest or late penalties on arrearages (accrued after the date of enactment) for non-payment. (Late penalties may be imposed on a monthly, quarterly, or annual basis.) All such charges must be distributed to the benefit of the child (unless child support rights have been assigned to the State). The Secretary shall establish by regulation a rule to resolve choice of law conflicts.*

In addition, Congress shall:

- (12) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;*
- (13) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;*
- (14) amend the Bankruptcy Code to:*
 - (a) allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;*
 - (b) allow child support creditors to file a claim without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a simplified form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics;*
 - (c) require the establishment of a simple procedure under which support creditors can file claims with the bankruptcy court;*
 - (d) give child support creditors priority over all other unsecured creditors; and*

- (e) *require that the bankruptcy trustee make payments to a child support creditor from the bankruptcy estate in accordance with a payment schedule established in a family court or other administrative or judicial proceeding.*
- (15) *amend and streamline Sections 459, 461, 462 and 465 of the Social Security Act and companion laws to make the garnishment of Federal employees and retirees (including military) salaries, wages and other benefits and income consistent with the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act);*
- (16) *amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than \$5,000 in child support arrearages. The State Department may match its list of applicants against tax offset files of noncustodial parents with orders who owe more than \$5,000;*

The Social Security Administration shall be authorized to:

- (17) *provide the State IV-D or Department of Motor Vehicle agency access to electronic verification of Social Security Numbers.*

Privacy Protection

Historically, child support enforcement agencies have had access to information unavailable to other Federal and or State agencies because of the special nature of their mission--ensuring that children receive appropriate financial support from their parents. Parents cannot be located and orders cannot be established and enforced unless the State has access to a wide array of information sources which identify places of employment and other information about assets and income. Under current Federal and State regulations and rules, information obtained for child support purposes is protected from unwarranted disclosure. The proposal ensures that privacy safeguards continue to cover all sensitive and personal information by extending such protections to any new sources of information. States are required to ensure that safeguards are in place to prevent breaches of privacy protection for individuals not liable or potentially liable for support and to prevent the misuse of information by those employees and agencies with legitimate access for child support purposes only.

- (1) *States shall:*
 - (a) *extend their data safeguarding state plan requirements to all newly accessible information under the proposal. States shall also institute routine training for state and local employees (and contractors shall be required to do the same for their staff) who handle sensitive and confidential data.*
 - (b) *regularly self-audit for unauthorized access or data misuse, and investigate individual complaints as necessary.*
 - (c) *have penalties for persons who obtain unauthorized access to safeguarded information or who misuse information that they are authorized to obtain.*

Supervisors who knew or should have known of unauthorized access or misuse shall also be subject to penalties.

- (2) *Procedures for protection of tax records should include such protections as:*
- (a) *data matching performed by staff having access only to related data fields necessary to perform child support functions;*
 - (b) *controlling access to individual child support computer records by the use of individual passwords; and*
 - (c) *monitoring access on a regular basis by use of computerized audit trail reports and feedback procedures.*

In addition:

- (3) *All child support enforcement staff shall be kept informed of Federal and state laws and regulations pertaining to disclosure of confidential tax and child support information.*
- (4) *Access to state vital statistics shall be restricted to authorized IV-D personnel.*
- (5) *The Federal government shall ensure that New Hire information is limited to IV-D agency use by authorized persons (as defined under current law).*
- (6) *The Secretary shall issue regulations setting minimum privacy safeguards that States must follow to ensure that only authorized users of personal information have access to it solely for official purposes.*

Funding

Federal Financial Participation and Incentives

The current funding structure of the Child Support Enforcement program is comprised of three major components: direct Federal matching, incentive payments to States, and the States' share of child support collections made on behalf of AFDC recipients.

Direct Federal matching, known as Federal financial participation or FFP, provides for 66 percent of most State/local IV-D program costs. A higher rate, 90 percent, is paid for genetic testing to establish paternity and, until October 1, 1995, for comprehensive state wide automated data processing (ADP) systems. The Federal government also pays States an annual incentive based on collections and cost effectiveness equalling 6-10 percent of collections from the Federal share of AFDC-related collections. States must pass on part of the incentive to any local jurisdiction that collected the child support if the State required the jurisdiction to participate in the program's costs.

Currently, States may profit from the IV-D program's funding structure irrespective of their performance. The proposed child support financing reforms are primarily directed at the Federal financial participation and the payment of incentives. Basic FFP will be increased from 66 percent to 75 percent to ensure that all States had a sufficient resource base to operate an efficient and effective program. Incentives will be based on State performance in the areas of paternity establishment, order establishment, collections and cost-effectiveness. Such incentives will ensure that States focus on the results that are expected from the program activities. States and the Federal Government will still share in the reduction in costs resulting from support collections made on behalf of AFDC recipients.

- (1) *The Federal government will pay 75 percent of State administrative costs. All cases included in the State's Central Registry will be eligible for federal funding.*
- (2) *States are eligible for incentive payments in the following areas:*
 - (a) *paternity establishment -- earning an increase of up to 5 percentage points in FFP for high paternity establishment rates, as determined by the Secretary; and*
 - (b) *overall performance -- earning an increase of up to 10 percentage points in FFP for strong overall performance which factors in:*
 - (i) *the percentage of cases with support orders established (number of orders compared to the number of paternities established and other cases which need a child support order);*
 - (ii) *the percentage of overall cases with orders in paying status;*
 - (iii) *the percentage of overall collections compared to amount due;*
 - (iv) *cost-effectiveness.*
- (3) *All incentives will be based on a formula to be determined by the Secretary.*
- (4) *All incentive payments made to the States must be reinvested back into the State child support program.*

Registry and Clearinghouse Start-up Enhanced FFP

Enhanced funding for the automated central registries and centralized collection distribution systems is critical to enable States to implement these new requirements.

- (1) *States will receive enhanced FFP at a 80%/10% Federal/State match rate, or at the base 75% FFP plus incentives, whichever is higher, for the planning, design, procurement, conversion, testing and start-up of their full-service, technology-enabled*

state registries and centralized payment centers. (This includes necessary enhancements to the automated child support system to accommodate the proposal.)

- (2) *For the next 5 years, the match rate is 80 percent and total Federal payments to States are capped at \$260,000,000, to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable ADP requirements.*

State/Federal Maintenance of Effort

- (1) *Using a maintenance of effort plan, the Federal government will require States to maintain at least their current level of contribution to the program, representing the State FFP match and any other State funds or receipts allocated to the child support program.*

Revolving Loan Fund

In order to encourage ongoing innovation in the IV-D program, it is proposed that a revolving loan fund be created. The revolving loan fund will allow the Federal government more flexibility in helping States develop and implement innovative practices which have significant effects on increasing collections and ongoing innovation.

- (1) *The Federal government through OCSE shall provide a source of funds appropriated up to \$100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections will be submitted to the Secretary on a competitive basis. Criteria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.*
- (2) *Funding will be limited to no more than \$5 million per State or \$1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be \$5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.*
- (3) *Funding will be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives.*

- (4) *Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds will be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.*

Program Management

Dramatically improving child support enforcement requires improved program management at both the State and Federal levels. The proposal includes several provisions designed to lead to better program performance and better services.

Training

From 1979 through the late 1980s OCSE contracted with outside organizations to provide on-site training to States across a broad range of topics. In early 1991, OCSE established the National Training Center within the Division of Program Operations to take over many training functions formerly performed by contractors. The purpose of the Center is to bolster States' training initiatives through curriculum design/development, dissemination of information and materials and, to the extent resources permit, the provision of direct training. While a few States have developed training standards for staff, there is currently no mandate that States have minimum standards for persons involved in the child support program.

Under the proposal, the Federal share of funding for training, technical assistance and research will significantly increase and will be earmarked each year for such things as training, technical assistance, research, demonstrations and staffing studies. Furthermore, States will be required to have minimum standards for training in their State plans. Under the proposal, OCSE will also develop a training program for State IV-D Directors. The IV-D program's complexity and importance to children and family self-sufficiency require that States have experienced and well-trained managers. Experts often point to the leadership experience of IV-D managers as a major factor in a state's performance.

- (1) *an amount equal to one (1) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, research, demonstrations and staffing studies.*
- (2) *OCSE shall provide a Federally developed core curriculum to all States to be used in the development of State-specific training guides. OCSE shall also develop a national training program for all State IV-D directors.*
- (3) *States must also have minimum standards in their State plans for training, based on the newly developed state-specific training guide, that include initial and ongoing training for all persons involved in the IV-D child support program. The program*

shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.

- (4) *In addition, funds under Title IV-D of the Social Security Act shall be made available to States for the development and conduct of training of IV-A and IV-E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities.*

Technical Assistance

Currently, States complain that they receive very little technical assistance from the Federal government. Indeed, the level of technical assistance provided to State child support enforcement agencies has declined significantly over the past several years because of staff and resource limitations. Aside from the provision of training and publication dissemination, most of the assistance provided is in the nature of problem identification through program reviews.

Under the proposal, OCSE will provide comprehensive direct technical assistance in a variety of forms to States. In particular, OCSE will take an active role in developing model laws and identifying best practices that States may adopt, reviewing State laws, procedures, policies, and organizational structure, and providing enhanced technical assistance to meet the program's goals. Such provision of technical assistance will be designed to prevent program deficiencies before they occur.

The OCSE shall provide technical assistance to States by:

- (1) *developing model laws and identifying model legislation and "best" State practices that States may follow when changing State laws to meet new Federal requirements;*
- (2) *reviewing State laws, policies, procedures, and organizational structure, including cooperative agreements, as part of the State plan approval process;*
- (3) *providing a State with a written assessment of its program and, when appropriate, identifying areas in which the State is deficient;*
- (4) *providing enhanced technical assistance to States to meet the program's goals; and*
- (5) *allowing 100 percent FFP for certain limited interstate training and technical assistance approved by the Secretary.*

Audit and Reporting

The Federal statute mandates periodic comprehensive Federal audits of State programs to ensure substantial compliance with all federal requirements. If deficiencies identified in an audit are not corrected, States face a mandatory fiscal penalty of between 1 and 5 percent of the Federal share of the State's AFDC program funding. Once an audit determines compliance with identified deficiencies, the penalty is lifted.

The detail-oriented audit is time-consuming and labor intensive for both Federal auditors and the States. One result is that audit findings do not measure current State performance or current program requirements. States contend that the audit system focuses too much on administrative procedures and processes rather than performance outcomes and results. However, it is widely agreed that efforts to pass the audit have been a significant driving force behind States' improved performance. While two-thirds of the States fail the initial audit, three-fourths of these same States come into compliance after a corrective-action period and avoid the financial penalty.

The proposal will simplify the Federal audit requirements to focus primarily on performance outcomes and require States to conduct self-reviews to assess whether or not all required services are being provided. Federal auditors will assess States' data used to determine performance outcomes to determine if it is valid and reliable and conduct periodic financial and other audits as the Secretary deems necessary. If State self-reviews or the level of grievances/complaints indicates that services are not being provided, OCSE will evaluate the State's program and ascertain the causes for the problems to help States correct the problems. Audit penalties assessed on the basis of deficiencies found with respect to a fiscal year will be waived if the State passes the audit at the end of the next fiscal year.

- (1) *Audit procedures by the Secretary shall include:*
 - (a) *simplifying the Federal audit requirements to focus primarily on performance outcomes;*
 - (b) *requiring States to develop their own control systems to ensure that performance outcomes are achieved, while making the results subject to verification and audit;*
- (2) *States shall:*
 - (a) *develop internal automated management control reporting systems that provide information to enable States to assess their own performance and employees' workload analysis, on a routine, ongoing basis so that exceptions can be called to the program management's attention;*
 - (b) *develop computer systems controls that provide reasonable assurances that computer-based data are complete, valid, and reliable;*
 - (c) *in accordance with Federal regulations, annually conduct a self-review to assess whether or not the State meets the program's specified goals,*

performance objectives and any recently completed staffing studies, as well as ensure that all required services are being provided.

(3) *Federal auditors shall:*

- (a) *at a minimum, based upon the U.S. Comptroller General's Government Auditing Standards, every 3 years, assess the reliability of the computer-processed data (or results provided as a result of the self-review). These audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system on computer magnetic tape or other appropriate auditing medium to ensure that it is valid and reliable;*
- (b) *if a State has failed a previous audit, continue to evaluate on an annual basis, whether the State has corrected the deficiencies identified under (1) above;*
- (c) *if the State self-reviews determine that the Federal requirements are not being met; ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions; and*
- (d) *if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then evaluate the State's program.*
- (e) *each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded. The Secretary may conduct such other audits as deemed necessary to ensure compliance.*

- (4) *The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties will be imposed immediately after a one year corrective action period.*

Director of Office of Child Support Enforcement

- (1) *The individual with responsibility for the day to day operation of the Federal Office of Child Support Enforcement shall have the title of Director instead of Deputy Director.*

Staffing Study

Insufficient staff levels have been cited as the greatest barrier to effectively processing child support cases. Despite significant State savings from the program, staffing levels have not kept pace with caseloads ever increasing in size and complexity. Comprehensive data on staffing is almost nonexistent. To address this information vacuum, staffing studies will be conducted for each State child support enforcement program, including an assessment of the effects of automation on human resource needs. States can use this information for informed personnel and budgetary decision-making.

- (1) *The Secretary of Health and Human Services or a disinterested contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central payment center requirements and include adjustments to future staffing if these changes reduce staffing needs. Such staffing studies may be periodically repeated at the Secretary's discretion. The Secretary shall report the results of such staffing studies to the Congress and the States.*

Expanded Outreach

No manner of child support reform will be truly successful unless parents are aware of and have reasonable access to services. Despite the fact that State child support agencies are currently required to advertise the availability of services, many families remain unaware of the program and still others find that services are not easily accessible.

In addition to the paternity establishment outreach provisions described earlier, the proposal will require each State to develop an outreach plan to inform families of the availability of IV-D services and to provide broader access to services, including initiatives which target the needs of working families and non-English speaking families. The Federal government will aid this effort by developing outreach prototypes and a multi-media campaign which focuses on the positive effects a noncustodial parent's involvement can have on a child's life as well as the detrimental effects of a parent's failure to participate.

- (1) *In order to broaden access to child support services, each State plan must:*
 - (a) *respond to the need for office hours or other flexibility that provide parents opportunity to attend appointments without taking time off of work; and*
 - (b) *develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.*

- (2) *To aid State outreach efforts, OCSE must:*
- (a) *develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;*
 - (b) *develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services;*
 - (c) *develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs; and*
 - (d) *focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.*

Customer Accountability

Under current law, OCSE has few requirements regarding how IV-D offices are to interact with the "customer," i.e., the affected family members, and how State agencies should respond to child support customers' complaints. Under the proposal, States will be required to notify custodial parents on a timely basis before all scheduled establishment and modification hearings or conferences. The State agency has 14 days to provide a copy of any subsequent order to the custodial parent. If someone receiving IV-D services feels the services provided were inadequate, he or she may request a fair hearing or a formal review process. Complaint and disposition reports shall be forwarded to the Department of Health and Human Services. These reforms give the "customers," the children's parents acting on behalf of the children, the redress that seems lacking in many States when the system fails to perform adequately. A mandatory grievance system should take care of most complaints, with a back-up right to sue in case the state grievance system inadequately resolves serious deficiencies of the program.

- (1) *State agencies shall notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;*
- (2) *State agencies shall provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 14 days of the issuance of such order;*
- (3) *An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the*

pending request (reports of complaints and dispositions shall also be reported to the Secretary):

- (4) *It is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owed to them. Individuals who are injured by a State's failure to comply with the requirements of Federal law, including State plan requirements of various titles of the Social Security Act, should be able to seek redress in Federal court. (No specific private cause of action to enforce child support provisions of the law are contained herein because there is already a private cause of action under 42 U.S.C. 1983 to redress state and local officials' violations of Federal child support statutes.)*

Effective Date

Unless otherwise stated in the Appendix, the amendments made by this Act shall take effect on October 1, 1994.

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT – CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Enforcement and Assurance (CSEA) is a program that will provide a minimum insured child support payment to the custodial parent even when the noncustodial parent was unable to pay. With such a program, a combination of work and child support could support a family out of welfare and provide some real financial security. Unlike traditional welfare, Child Support Enforcement and Assurance will encourage work because it allows single parents to combine earnings with the child support payment without penalty. Also, according to some experts, Child Support Enforcement and Assurance will change the incentives for a mother to get an award in place and it will focus attention on the noncustodial parent as a source of support.

No state currently has a Child Support Enforcement and Assurance program, although the Child Assistance Program (CAP) in New York State has some similar features. Many States have expressed an interest in trying a Child Support Enforcement and Assurance program, provided that some federal assistance and direction could be provided. Major questions surround such programs – costs, implementation strategies, anti-poverty effectiveness, the effect on AFDC participation, etc. And unless the state really does a good job in enforcement, there is a question about whether such a program lets the noncustodial parent off the hook for payment.

State demonstrations will be used to try out Child Support Enforcement and Assurance with States being allowed some state flexibility to try different approaches. Evaluations of the demonstrations will be conducted and used to make recommendations for future policy directions.

- (1) *Congress will authorize and appropriate funds for three CSEA demonstration programs:*
 - (a) *Each demonstration will last seven to ten years. An interim report will be due four years after approval of the demonstration grant.*
 - (b) *The Secretary shall determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State programs should be recommended, based on various factors that include the economic impact of CSEA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSEA has been received by the custodial parent, the impact of CSEA on work-force participation and AFDC participation, the anti-poverty effectiveness of CSEA,*

the effect on paternity establishment rates, and any other factors the Secretary may cite.

- (c) *As part of the demonstrations, some States will have the option of creating work programs so that noncustodial parents could work off the support if they have no income.*
 - (d) *The demonstration projects are based on a 90%/10% Federal/State match rate (the higher federal match applies only to administrative costs attributable to the program and that portion of the benefits that does not represent the reduction in AFDC due to receipt of the CSEA benefit.)*
 - (e) *The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.*
 - (f) *The Secretary may approve both state-wide demonstrations and demonstrations that are less than state-wide.*
 - (g) *The Secretary shall develop standards for evaluation including appropriate random assignment requirements.*
- (2) *The child support assurance criteria for the State demonstration programs will require that:*
- (a) *the CSEA program be administered by the state IV-D agency, or at state option, its department of revenue; in order to be eligible to participate in the CSEA program, States must ensure that their automated systems that include child support cases are fully able to meet the CSEA program's processing demands, timely distribute the CSEA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSEA cases,*
 - (b) *States are provided flexibility in designing the benefit scales within the following parameters: benefit levels between \$1,500 per year for one child and \$3,000 per year for four or more children and benefit levels between \$3,000 per year for one child and \$4,500 per year for four or more children.*
 - (c) *CSEA basic benefit amounts are indexed to the adjusted Consumer Price Index.*
 - (d) *CSEA benefits are counted as private child support for the purpose of eligibility for other government programs;*
 - (e) *CSEA benefits are deducted dollar for dollar from an AFDC grant, except that in low benefit States, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSEA removes someone from the AFDC grant, States may, at their*

option, continue eligibility for other related benefits that would have been provided under the AFDC grant.) If a State chooses it may supplement the CSEA basic benefit amount by paying the FMAP contribution of any supplement up to \$25, and all of any supplement over \$25.

- (f) CSEA eligibility is limited to children who have paternity and support established. Waivers from this requirement may be granted only in cases of rape, incest, and danger of physical abuse.
- (g) CSEA benefits are treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the state will send each CSEA recipient a statement of the amount of CSEA provided and private child support paid during the calendar year. If the CSEA benefits exceed the support collected, the difference is taxable as ordinary income.
- (h) money collected from the noncustodial parent be distributed first to pay current support, then CSEA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.
- (i) in cases of joint and/or split custody, a person is eligible for CSEA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award will be below the minimum CSEA benefit if the guidelines for sole custody were applied to either parent.

V. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Access and Visitation Grants to States

Children need emotional and social support of both parents, as well as financial support. While it is necessary to clearly distinguish between obligations for financial support and other parent-child interactions, positive parent-child interactions may have an effect on support payment compliance as well as other aspects of child well-being. There is also evidence that many parents need help in understanding how to implement cooperative parenting after a divorce or separation occurs and that children are harmed by the continuation of hostile relationships between their parents. The Family Support Act of 1988 authorized Access demonstration to determine if such projects reduced the amount of time required to resolve access disputes, reduced litigation relating to access disputes, and improved compliance in the payment of support. These demonstrations are coming to a close and there is no provision for the on-going funding of additional projects.

This proposal will supplement state efforts to provide increased support for access and visitation projects which reinforce the need for children to have continued access to and visitation by both parents.

- (1) *Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement including monitoring, supervision and neutral drop off and pick up and development of guidelines for visitation and alternative custody arrangements.*
 - (a) *The Administration for Children and Families, Department of Health and Human Services will administer the program.*
 - (a) *States will be required to monitor and evaluate their programs; evaluation and reporting requirements will be determined by the Secretary;*
 - (c) *States may sub-grant or contract with courts, local public agencies or to private non-profit agencies to carry out the approved grant work;*
 - (d) *Program(s) operating under the grant will not have to be state-wide;*
 - (e) *Funding will be authorized as a capped entitlement under section IV-D of the Social Security Act. State grantees will receive funding at the regular FFP program rate. Projects will be required to supplement rather than supplant State funds.*

Training and Employment for Noncustodial Parents

[See **JOBS/TIME-LIMITS AND WORK Specifications**]

Demonstration Grants for Paternity and Parenting Programs

[See **TECHNICAL ASSISTANCE, EVALUATION AND DEMONSTRATIONS Specifications**]

APPENDIX A

EFFECTIVE DATES FOR IMPLEMENTING REFORMS

The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV-D of the Social Security Act is effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV-D is effective October 1, 1994.

Any state requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: "...or, if the state legislature meets biennially, within three months after the close of its first regular session that begins after enactment of this bill."

Proposed Requirement	Effective Date
Paternity	
New paternity measurement	Oct. 1, 1995
FFP - paternity (see FFP phase in below)	Oct. 1, 1997
Performance-based incentives	Oct. 1, 1996
Federally approved state incentives/demos	Oct. 1, 1996
State/health care provider information	Oct. 1, 1996
Simplified paternity procedures	Oct. 1, 1995
State outreach requirements	Oct. 1, 1996
Enhanced FFP (90%) for paternity outreach	Oct. 1, 1995
Cooperation and good cause requirements	10 months after enactment
Accreditation of genetic testing labs	
fed regulations	Oct. 1, 1995
effective for 1st new state contract	Oct. 1, 1995
Administrative authority for establishment	Oct. 1, 1997
National Commission on Child Support Guidelines	
Authorized	Oct. 1, 1994
Named by	March 1, 1995
Report due	July 1, 1997
Review and Adjustment for Cases	Oct. 1, 2000

Distribution Changes	
New priority/multiple orders	Oct. 1, 1997
Treatment of child support in AFDC cases	Oct. 1, 1995
Tax offset-returns filed	after Jan. 1, 1996
Central State Registry	
Automated requirements tied to current FSA/OCSE requirements	Oct. 1, 1995
Other requirements	Oct. 1, 1997
Central Payment Center	
Centralized collection/distribution start up	Oct. 1, 1997
Statewide distribution	Oct. 1, 1998
Administrative Action to Change Payee	Oct. 1, 1995
National Child Support Registry	
Funding	Oct. 1, 1994
On-line/fully operational	Oct. 1, 1997
National Directory of New Hires	
Funding	Oct. 1, 1995
On-line for all States	Jan. 1, 1997
Universal ER reporting requirements	Jan. 1, 1997
Feasibility Study (STAWRS, SSA, AHSA)	
Funded	Oct. 1, 1994
Let	Dec. 1, 1994
Due	June 1, 1995
HHS/IRS decision	Aug. 1, 1995
Expanded FPLS	
Funding	Oct. 1, 1994
On-line/fully operational	Oct. 1, 1997
Union Hall Cooperation - State Laws	Oct. 1, 1995
Studies: Locate and Credit Reporting Agencies	
Funded	Oct. 1, 1995
Let	Dec. 1, 1995
Due	Dec. 1, 1996
IRS Data (IRS and state changes)	Oct. 1, 1995
IRS Tax Offset- Effective for returns	after Jan. 1, 1996

IRS Full Collection	
Nonautomated changes	Oct. 1, 1995
Automated funding	Oct. 1, 1994
Automated IRS implementation	Oct. 1, 1995
Interstate Enforcement	
UIFSA (legis. flexible until 1/1/96)	Oct. 1, 1995
Federal request for information	
OCSE distributes form	Oct. 1, 1995
nationwide force effective	Oct. 1, 1995
Other state laws	Oct. 1, 1995
Other Enforcement Measures	
State enforcement law changes	Oct. 1, 1995
Exception: liens and immediate wage withholding in all non-IV-D cases	Oct. 1, 1997
Privacy Protections	
Federal regulations	Oct. 1, 1995
State implementation	Oct. 1, 1996
Federal Financial Participation	
66% to 69%	Oct. 1, 1995
70% to 72%	Oct. 1, 1996
73% to 75%	Oct. 1, 1997
Incentives	
Federal reg promulgation	Oct. 1, 1995
Paternity standard	Oct. 1, 1997
Overall performance	Oct. 1, 1997
Enhanced (80%) ADP System Enhancement	
Start up	Oct. 1, 1994
Sunsets	Oct. 1, 1999
State/Federal Maintenance of Effort	Oct. 1, 1997
Revolving Loan Fund	Oct. 1, 1995
Training/Technical Assistance	
OCSE begins its efforts	Oct. 1, 1994
Audit and Technical Assistance	
Technical assistance funding	Oct. 1, 1994
Federal audit regulations	Oct. 1, 1995
State-based audit requirements	Oct. 1, 1996

Staffing Studies Funded	Oct. 1, 1994
Studies completed	Oct. 1, 1996
Outreach	
States begin to meet goals	Oct. 1, 1995
OCSE requirements/funding	Oct. 1, 1995
Customer Accountability	
Fair hearings	
Federal regulations	Oct. 1, 1995
State implementation	Oct. 1, 1996
Child Support Enforcement and Assurance (CSEA)	
Demonstrations	
Fed/state funding for CSEA	Oct. 1, 1995
State interim reports	Jan. 1, 1999
State final reports	Oct. 1, 2002-5
Federal reports to Congress	Apr. 1, 2005
Federal administrative funding	Oct. 1, 1994
Federal regulations	Oct. 1, 1995

WORK AND RESPONSIBILITY ACT
OF 1994

LEGISLATIVE SPECIFICATIONS - PART B

-- June 14, 1994 --

WORK AND RESPONSIBILITY ACT
OF 1994

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JOBS, TIME LIMITS AND WORK [Title I, Title II]**JOBS AND TIME LIMITS****1. EFFECTIVE DATE AND DEFINITION OF PHASED-IN GROUP****Specifications**

- (a) The effective date for the legislation would be October 1, 1995. States could petition to delay implementation for up to one year after the effective date (i.e., until, at the latest, October 1, 1996) for circumstances beyond the control of the State IV-A agency (e.g., no meeting of State legislature that year). States would be required to have the program implemented statewide (in each political subdivision of the State where it is feasible to do so) within two years of initial implementation.
- (b) The phased-in group would be defined as custodial parents, including minor custodial parents, who were born after 1971 (in 1972 or later).
- (c) States would have the option to define the phased-in group more broadly (e.g., custodial parents born after 1969; born after 1971 and all first-time applicants), provided the phased-in group included at least the population described in (b).
- (d) States would be required to apply the new rules, including the time limit, to all applicants in the phased-in group as of the effective date of the legislation. Recipients (parents) in the phased-in group who were on AFDC prior to the effective date would be subject to the new rules, including the time limit, as of their first redetermination following the effective date.

2. PROGRAM INTAKE**Current Law**

The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs.

Vision

At the point of intake, applicants will learn of their specific responsibilities and expectations regarding the JOBS program, the two-year time limit and its relationship to JOBS participation and AFDC benefits not conditioned upon work. Each applicant will now be required to enter into a personal responsibility agreement with the State agency broadly outlining the obligations of each party. While the personal responsibility agreement will serve as a general accord, the employability plan will be focused on the specific employment-related needs of each applicant.

Rationale

States must change the culture of the welfare system by changing the expectations of both the recipient and the State agency. This calls for modifying the mission of the welfare system beginning at the point of intake to stress employment and access to needed services rather than eligibility and benefit determination. The mutual obligations of the State agency and the participant must be spelled out and enforced. JOBS programs must continue to link clients to services in the community.

Specifications

- (a) All parents and other caretaker relatives would be required as part of the application/redetermination process to sign a Personal Responsibility Agreement with the State IV-A agency. The Agreement would state the overall goal of achieving maximum self-sufficiency and would describe the general responsibilities of both the applicant and the State agency (for the applicant, following the employability plan; for the State, making available the services in the plan). Current recipients (parents), if they had not previously signed the Agreement, would be required to sign the Agreement as part of the redetermination process. The Personal Responsibility Agreement for persons in the not-phased-in group would make no reference to the time limit.
- (b) The Personal Responsibility Agreement would not be a legal contract.
- (c) The State IV-A agency would be required to orient each applicant to the AFDC program by providing information about the AFDC program, which would include (among other items) the nature and applicability of the two-year time limit, the JOBS participation requirement, the services provided under JOBS and the availability of such services to persons not in the phased-in group. Each applicant in the phased-in group would be informed of the number of months of cash assistance/JOBS participation for which he or she was eligible (e.g., 24 for first-time applicants). The orientation information could be provided as part of the eligibility determination process or in a subsequent one-on-one or group orientation session. States would be required to provide the orientation information prior to or as part of the development of the employability plan. The information would be imparted in the recipient's primary language pursuant to Federal law and regulation. Child care would be available as needed to enable an individual to receive the orientation information (as under 45 CFR 255.2).
- (d) The State would have to obtain confirmation in writing from each applicant in the phased-in group that he or she had received and understood the requisite orientation information.
- (e) Recipients who were already on assistance as of the effective date of the legislation would be provided with the requisite orientation information at the earliest possible date but in no event later than at the development or revision of the employability plan (see below) or as part of the redetermination process, whichever came first.

3. EMPLOYABILITY PLAN

Current Law

On the basis of the assessment described above, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which

specifies the participants' obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.

Vision

The employability plan will be designed so as to help individuals secure lasting employment as soon as possible. Employability plans may be for less than 24 months and may include assignment, through JOBS, to work programs such as On-the-Job Training, Work Supplementation and CWEP.

Specifications

- (a) The State agency would be required to complete the assessment and employability plan (for new recipients) within 90 days from the date assistance began. For recipients on assistance as of the effective date, the employability plan would have to be developed (or revised, if such a plan were already in place) within 90 days of the date the recipient became subject to the time limit (i.e., within 90 days of the redetermination; see above).
- (b) The employability plan will be developed jointly by the State agency and the recipient. In designing the employability plan, the agency and the recipient would consider, among other elements, the months of eligibility (for JOBS participation/AFDC benefits not contingent upon work; see DEFINITION OF THE TIME LIMIT below) remaining for that recipient (if that recipient were subject to the time limit).
- (c) An employability plan would be required for all JOBS participant, including those not in the phased-in group (e.g., volunteers). Employability plans would also be developed, when appropriate, for persons who were deferred from JOBS participation.
- (d) The employability plan for persons required to participate in JOBS would include an expected time frame for achieving self-sufficiency and the activities intended to assist the participant in obtaining employment within that time period. The time frame would, in the case of many JOBS participants, be shorter than 24 months. For persons who were deferred, an employability plan could detail the activities needed to remove the obstacles to JOBS participation (see below).
- (e) Amend section 482(b)(1)(A) by adding "literacy" after the word "skills."
- (f) The State agency would provide that if the recipient and the State agency staff member or members responsible for developing the employability plan cannot reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes will intervene to provide further advocacy, counseling or negotiation support.
- (g) To resolve disputes (regarding the employability plan) not settled by the intervention in (f), a State may elect one or more of the following processes:
 - i. Permit the agency to establish an internal review board to arbitrate disputes. This board would have the final say. The Secretary would establish regulations for such boards.
 - ii. Permit agencies to employ mediation using trained personnel, rather than arbitration, to resolve the dispute. HHS would be responsible for providing technical assistance to States that wish to use mediation.

- iii. Allow the recipient a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii).
- (h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the process described above would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction for continued refusal to agree to such plan.

4. DEFERRALS

Current Law

States must require non-exempt AFDC recipients to participate in the JOBS program to the extent that resources are available. Exemptions under the current JOBS program are for those recipients who are ill, incapacitated, or of advanced age; needed in the home because of the illness or incapacity of another family member; the caretaker of a child under age 3 (or, at State option, under age 1); employed 30 or more hours per week; a dependent child under age 16 or attending an educational program full time; women in the second and third trimester of pregnancy; and residing in an area where the program is not available. The parent of a child under age 6 (but older than the age for an exemption) who is personally providing care for the child may be required to participate only if participation does not exceed 20 hours per week and necessary child care is guaranteed. For AFDC-UP families, the exemption due to the age of a child may be applied to only one parent, or to neither parent if child care is guaranteed.

Vision

Under new provisions, a much greater percentage of AFDC recipients will be required to participate in JOBS. Single-parent and two-parent families will be treated similarly under the new JOBS system. Persons not yet ready for participation in JOBS will be deferred, temporarily in many cases, from such participation. Some of the criteria for deferral are based on current regulations concerning exemptions, but in a number of instances the definition is tightened significantly.

Rationale

In order to change the culture of welfare, it is necessary to maximize participation in the JOBS program. It is also critical to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. The deferral policy does, however, give States the flexibility to consider differences in the ability to work and to participate in education and training activities in determining whether to require an individual to enter the JOBS program.

Specifications

- (a) Adult recipients (see Teen Parents below for treatment of minor custodial parents) who were not able to work or participate in education or training activities (e.g., due to care of a disabled child) could be deferred either prior to or after entry into the JOBS program (or after entry into the WORK program; see WORK specifications below). For example, if an individual became seriously ill after entering the JOBS program, he or she would then be deferred.

- (b) The State agency would be required to make an initial determination with respect to deferral prior to or as part of the development of the employability plan, since the determination would in turn affect the content of the employability plan. A recipient who is required to participate in JOBS rather than deferred could request a fair hearing focusing on whether the individual meets one of the deferral criteria (see below). The time frame for completion of the employability plan (see above) would be waived in instances of a dispute concerning deferral from JOBS.
- (c) Persons who were deferred from JOBS would be expected when possible to engage in activities intended to prepare them for employment and/or the JOBS program. An employability plan for a deferred recipient could detail the steps, such as referral to State vocational rehabilitation services or arranging for an appropriate day care or school setting for a child with a disability, needed to enable the adult to enter the JOBS program and/or find employment.
- Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) would not be expected to engage in activities to prepare for JOBS participation. An employability plan for such a person might include steps intended to, for example, improve the family's health status or housing situation. For individuals who were expected to enter the JOBS program shortly (e.g., mothers of young children), services could be provided to address any outstanding barriers to successful participation in JOBS (e.g., arranging for child care).
- (d) States could provide program services to deferred individuals, using JOBS funds, but would not be required to do so. Likewise, States could provide child care or other supportive services to persons who were deferred, but would not be required to do so—there would be no child care guarantee for individuals in the deferred status. Persons who were deferred would not be subject to sanction for failure to participate in activities. In other words, in order to actually require an individual to participate in an activity, a State would have to classify the individual as JOBS-mandatory (except with respect to participation in substance abuse treatment; see SUBSTANCE ABUSE AND DEFERRAL FROM JOBS OR WORK below).
- (e) Persons who were deferred would not be subject to the time limit, i.e., months in which a recipient was in deferred status would not count against the two-year limit.
- (f) The criteria for deferral from JOBS would be the following:
- (1) Is a parent of a child under age one, provided the child was not conceived while the parent was on assistance. A parent of a child conceived while on assistance would be deferred for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).
(Under current law, a parent of a child under age three, under age one at State option, is exempted from JOBS participation, and no distinction is made according to whether or not the parent was on assistance when the child was conceived)
 - (2) Is ill or incapacitated, when it is certified by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State) that the illness or incapacitating condition is serious enough to prevent, at least temporarily, entry into employment or training;
 - (3) Is 60 years of age or older;

- (4) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State), and no other appropriate member of the household is available to provide the needed care;
- (5) Is in the third trimester of pregnancy; or
(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)
- (6) Lives in a remote area. An individual would be considered remote if a round trip of more than two hours by reasonably available public or private transportation would be required for a normal work or training day. If the normal round-trip commuting time in the area is more than 2 hours, the round-trip commuting time could not exceed generally accepted standards for the area.
(Same as current regulations, CFR 250.30))
- (g) Only one parent in an AFDC-UP family could be deferred under f(1).
- (h) Each State would be permitted to defer from JOBS for good cause, as determined by the State, a number of persons up to a fixed percentage of the total number of persons in the phased-in group, which would include adult recipients (parents), minor custodial parents and persons in the WORK program. These good cause deferrals would be in addition to those meeting the deferral criteria defined in (f). Good cause could include substantial barriers to employment—for example, a severe learning disability or serious emotional instability. The percentage cap on such deferrals would be set, in statute, at 5% through FY 99 and 10% thereafter. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such requests in a timely manner (time frame to be established by regulation).
- (i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause deferrals; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.
- (j) The State agency would be required to reevaluate the status of persons in deferred status at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see SEMIANNUAL ASSESSMENT below) to determine if the individual should remain in deferred status or should enter (or re-enter) the JOBS or WORK programs.
- (k) Recipients who met one (or more) of the deferral criteria would be permitted to volunteer for the JOBS program, subject to available Federal resources (see JOBS PARTICIPATION below). Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit. These volunteers would be distinct from volunteers from the not-phased-in group (see JOBS PARTICIPATION below), who could at State option be subjected to the time limit.

- (l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the deferred status into the JOBS program).
- (m) The criteria for deferring persons from WORK participation (see WORK below) would be identical to the deferral criteria for persons who had not yet reached the two-year time limit. Persons who were deferred from the WORK program after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons deferred from the JOBS program before reaching the time limit, except that if the condition necessitating deferral ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients deferred from the WORK program for good cause would count against the cap on the number of deferrals for good cause.

5. SUBSTANCE ABUSE AND DEFERRAL FROM JOBS OR WORK

Current Law

Current law does not specifically mention substance abuse. Under JOBS regulations, a recipient whose only activity is alcohol or drug treatment would not be counted toward a State's participation rate. Alcohol or drug treatment may, however, be provided as a supportive service using JOBS funds should a State choose to do so. Oregon currently has a waiver that permits the JOBS program to require participation in substance abuse diagnostic, counseling, and treatment programs if they are determined to be necessary for self-sufficiency.

Vision

States will be given flexibility to require recipients they determine to be unable to engage in employment or training because of a substance abuse problem to participate in substance abuse treatment while in the deferred status. Sanctions may be imposed for non-participation in substance abuse treatment provided that both treatment and supportive services, including child care, are made available.

Rationale

States report (on an anecdotal basis) substance abuse as a problem they encounter in their JOBS populations. It is a barrier to self-sufficiency for a number of AFDC recipients who will require treatment if they are to successfully participate in employment or training activities. It is estimated that approximately 4.5% of AFDC recipients have substance abuse problems sufficiently debilitating to preclude immediate participation in employment or training activities. Nearly one-third of these have participated in some form of alcohol or drug treatment in the past year.

Specifications

- (a) States may require persons found unable to engage in employment or training due to substance abuse to participate in appropriate substance abuse treatment while in deferred status.
- (b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.

Must?

- (c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.
- (d) Provisions concerning the semiannual reassessment apply to deferred persons participating in substance abuse treatment as described in this section.
- (e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

6. DEFINITION OF THE TIME LIMIT

Current Law

Some States (those which did not have an AFDC-UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC-UP program, restricting eligibility for AFDC-UP to 6 months in any 12-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC-UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.

Vision

Most of the people who enter the welfare system do not stay on AFDC for many consecutive years. It is much more common for recipients to move in and out of the welfare system, staying a relatively brief period each time. Two out of every three persons who enter the welfare system leave within two years and fewer than one in ten spends five consecutive years on AFDC. Half of those who leave welfare return within two years, and three of every four return at some point in the future. Most recipients use the AFDC program not as a permanent alternative to work, but as temporary assistance during times of economic difficulty.

While persons who remain on AFDC for long periods at a time represent only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long-term recipients are not on a track toward obtaining employment that will enable them to leave AFDC.

The proposal would establish, for adult recipients who were not deferred, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was deferred would not count against the time limit. Individuals who have left welfare for extended periods of time would be eligible for a cushion of a few months of AFDC benefits.

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both the recipient and the welfare agency a structure that necessitates steady progress in the direction of employment and economic independence. As discussed in the WORK specifications below, recipients who reach the two-year time limit without finding an unsubsidized job will be offered publicly subsidized jobs to enable them to support their families.

Specifications

- (a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would begin with the initial AFDC payment (or with the first payment following redetermination, in the case of persons on AFDC prior to the effective date of the legislation). Months in which an individual was receiving assistance but was deferred rather than in JOBS would not count against the 24-month time limit (see DEFERRAL above).
- (b) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) A record of the number of months of eligibility remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.
- (d) The State agency would be required to advise each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than once every six months (see SEMIANNUAL ASSESSMENT below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see TRANSITION TO WORK/WORK below).

7. AFDC-UP FAMILIES AND THE TIME LIMIT

Specifications

- (a) In an AFDC-UP family, both parents would be subject to the time limit if either parent were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC-UP family were deferred, that parent would not be subject to the time limit--months in deferred status would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. A deferral of one parent in an AFDC-UP family would not count against the cap on deferral for good cause.
- (b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.
- (c) If a parent in an AFDC-UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating the AFDC benefit. If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining any supplemental AFDC benefit and would also be eligible for a WORK assignment. As discussed in the WORK specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC-UP family.

- (d) Months in which a parent in an AFDC-UP family met the minimum work standard would not count against that parent's time limit. If the combined hours of work for both parents were equal to an average of 30 or more per week, neither parent would be subject to the time limit (see MINIMUM WORK STANDARD).
- (e) If one of the two parents in an AFDC-UP family were sanctioned under the WORK program or under JOBS for refusing to accept an unsubsidized job, the sanctions described below (see SANCTIONS/PENALTIES) apply, regardless of the status of the second parent.
- (f) With respect to the phase-in, both parents in an AFDC-UP family would be considered subject to the new rules if either parent were in the phased-in group. If the parents in an AFDC-UP family subject to the new rules subsequently separated, both would still be subject to the new rules.
- (g) States which already limited AFDC-UP eligibility to 6 months in any 13-month period would not be permitted to apply the two-year time limit or any related provisions to AFDC-UP families. In these States, all AFDC-UP families would be treated as part of the not-phased-in group.

8. TEEN PARENTS

Vision

Persons under 18 are not ready to be independent and should generally be in school. Under the proposed law, minor parents would not be allowed to set up independent households. They would receive case management and be expected to remain in school. A teen parent's time clock would not begin to run until he or she turned 18 (and could establish an independent household).

Specifications

- (a) States would be required to provide case management services to all custodial parents under 20.
- (b) All custodial parents under 20 who had not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.
- (c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to defer custodial parents under 20 in the event of a serious illness or other condition which precluded school attendance.
- (d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 22 if needed to complete high school. These extensions would not be counted against the cap on extensions.

9. JOBS SERVICES

Current Law

A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be provided as part of a State's JOBS program are the following: educational activities, including high school and equivalent education, basic and remedial education, and education for persons with limited English proficiency; job skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care, transportation and other work-related supportive services. States must also offer, in addition to the aforementioned services, at least 2 of the following services: group and individual job search, on-the-job training (OJT), work supplementation programs and community work experience programs.

Vision

The definition of satisfactory participation in the JOBS program will be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States will continue to have broad latitude in determining which services are provided under JOBS. Greater emphasis, however, would be placed on job search activities, to promote work and employment.

Specifications

Up-Front Job Search

- (a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date assistance began. Job ready would be in general defined as having either non-negligible work experience or a high school diploma. States would include a more detailed definition of job-ready in the State plan. The definition would have to exclude persons who met or appeared likely to meet one of the deferral criteria. A formal determination as to deferral, however, would not be required at this point.
- (b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).
- (c) The permissible period of initial job search would be extended from 8 weeks to 12.

Other Provisions Concerning JOBS Services

- (d) States would be required to include job search among the JOBS services offered.
- (e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see TRANSITION TO WORK/WORK below) would both be counted against the 4-month limit.

- (f) Amend section 482(d)(1)(A)(i)(I) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency."
- (g) Self-employment programs, including microenterprise training and activities, would be added to the list of optional JOBS activities.
- (h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum length of participation in a work supplementation program of 9 months, to a level based on a maximum length of participation of 12 months.
- (i) Change the nondisplacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector, provided such placements did not violate the other nondisplacement provisions in current law.
- (j) Alternative Work Experience would be limited to 90 days within any 12-month period.
- (k) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.
- (l) States would be required to indicate in the State plan whether and how they will make training as child care providers available to participants.
- (m) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.
- (n) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JTPA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.
- (o) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.
- (p) The agency administering the JOBS and WORK program would be prohibited by regulation from referring participants to, contracting with or otherwise making IV-F or IV-G funds available to a provider of education and training services if such institution were disqualified from participation in a program under Title IV of the Higher Education Act or under the Reemployment Act. A State would be provided, by regulation, the option of applying the alternative eligibility procedure established under the Reemployment Act to potential providers of JOBS or WORK services.

10. MINIMUM WORK STANDARD

Specifications.

- (a) The minimum work standard would be an average of 20 hours of (unsubsidized) work per week during the month, with a State option to increase to up to an average of 30 hours per week. States would also have the option to set different minimum work standards for different subgroups (e.g., mothers of children under 6), provided that the standard for each subgroup was at least 20 and no more than 30 hours per week.
- (b) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent met the minimum work standard, he or she would not be subject to the time limit. Months in which the combined hours of both parents equaled or exceeded 30 (up to 40 at State option) would not count against the time limit for either parent.
- (c) An individual who had not reached the time limit and was meeting the minimum work standard would be counted as a JOBS participant (see JOBS PARTICIPATION below).
- (d) A person who had reached the time limit but was meeting the minimum work standard would be eligible for supplemental AFDC benefits, if otherwise eligible for AFDC (see EARNINGS SUPPLEMENTATION below).
- (e) A State would be required to offer a WORK assignment to an individual working in an unsubsidized job for a number of hours not equal than the minimum work standard (provided the person were otherwise eligible for the WORK program; e.g., met income and resource tests). The WORK assignment would be structured, to the extent possible, not to interfere with the unsubsidized employment.

11. JOBS PARTICIPATION

Current Law

Under the Family Support Act of 1988, which created the JOBS program, minimum JOBS participation standards (the percentage of the non-exempt AFDC caseload participating in JOBS at a point in time) were established for fiscal years 1990 through 1995. States face a reduced Federal match rate if those standards are not met. In FY 1993 States were required to ensure that at least 11% of the non-exempt caseload in the State was participating in JOBS (in an average month). The standard increased to 15% for FY 1994 and will rise to 20% for FY 1995. There are no standards specified for the fiscal years after FY 1995. Individuals who are scheduled for an average of 20 hours of JOBS activities per week and attend for at least 75% of the scheduled hours are countable for participation rate purposes. States are required to meet separate, higher participation standards for principal earners in AFDC-UP families. For FY 1994, a number of AFDC-UP parents equal to 40 percent of all AFDC-UP principal earners are required to participate in work activities for at least 16 hours per week. The standard rises to 50 percent for FY 1995, 60 percent for FY 1996 and 75 percent for each of the Fiscal Years 1997 and 1998.

Vision

To transform the welfare system from an income support system into a work support system, the JOBS program must be expanded significantly. This substantial increase in the number of JOBS participants will be phased in over time.

Specifications

- (a) The JOBS program targeting requirements would be eliminated. Similarly, the separate AFDC-UP participation standards would be abolished, except in those States which elected to limit AFDC-UP eligibility to 6 months in any 13-month period.
- (b) Individuals in self-initiated education and training activities (including, but not limited to, post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.
- (c) The definition of participation would be altered by regulation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week.
- (d) The definition of JOBS participation would be broadened to include working in jobs that meet the minimum work standard (see above).
- (e) The broadened definition of participation would include participation in a structured microenterprise program. As above, satisfactory participation in such a microenterprise program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20.

JOBS Participation for the Not-Phased-In GroupSpecifications

- (f) States would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.
- (g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:
 - i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit. A State would be required to describe in the State plan its policy with respect to volunteers.
 - ii. States could define the phased-in group more broadly, e.g., parents born after 1971 and all new applicants (see EFFECTIVE DATE AND DEFINITION OF THE PHASED-IN

GROUP above). In addition, a State could *require* recipients who were not in its phased-in group to participate in JOBS, but could not apply the time limit to such JOBS-mandatory persons (as opposed to volunteers above). In other words, a State that defined the phased-in group as parents born after 1969 could require a person born in 1968 to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. An individual in either the phased-in or the not-phased-in groups who met one of the deferral criteria could not be required to participate in JOBS.

12. JOBS FUNDING

Current Law

Under current law, the capped entitlement for JOBS is distributed according to the number of adult recipients in a State, relative to the number in all States. State expenditures on JOBS are currently matched at three different rates. States receive Federal matching funds, up to the State's 1987 WIN allocation, at a 90 percent Federal match rate. Expenditures above the amount reimbursable at 90 percent are reimbursed at 50 percent, in the case of spending on administrative and work-related supportive service costs, and at the higher of 60 percent or FMAP in the case of the cost of full-time JOBS program staff and other program expenditures (apart from spending on child care, which does not count against the JOBS capped allotment and is matched at the FMAP). The JOBS entitlement (Federal funding) is capped at \$1.1 billion for FY 94, \$1.3 billion for FY 95, and \$1 billion for FY 96 and each subsequent fiscal year.

Specifications

- (a) The capped entitlement for JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).
- (b) The JOBS capped entitlement (Federal) would be set at \$1.75 billion for FY 1996, \$1.7 billion for FY 1997, \$1.8 billion for FY 1998 and \$1.9 billion for fiscal years 1999 through 2004. For Fiscal Year 2005 and each fiscal year thereafter, the level of the cap would be set at \$1.9 billion adjusted for inflation using the Consumer Price Index.
- (c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the following levels: FMAP plus five percentage points, with a floor of 65 percent, for fiscal years 1996 and 1997; at FMAP plus seven percentage points, with a floor of 67 percent, for FY 1998; at FMAP plus nine percentage points, with a floor of 69 percent for FY 1999; and at FMAP plus ten percentage points, with a floor of 70 percent, for FY 2000 and each fiscal year thereafter. Spending for direct program costs, for administrative costs and for the costs of transportation and other work-related supportive services (apart from child care) would all be matched at this single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated. The enhanced match rate would become effective upon statewide implementation of the new legislation. Statewide for this purpose would be defined as a number of persons subject to the time limit that equaled or exceeded 90% of the Federally-defined phased-in group. The numerator for this calculation would be individuals in the State's phased-in group and subject to the time limit; the denominator would be custodial parents born after 1971. A State would be eligible for the enhanced match rate prior to reaching the 90 percent level if it

had in place an approved plan for achieving, within two years of initial implementation, that target.

- (d) To qualify for the enhanced match rate, a State's total spending (State share) for JOBS, WORK (matchable from the WORK capped entitlement) and for IV-A, Transitional and At-Risk Child Care for a fiscal year would have to equal or exceed the State's total spending for JOBS and for IV-A, Transitional and At-Risk Child Care for Fiscal Year 1994 but could in no event be less than the total of such spending for Fiscal Year 1993.
- (e) If a State did not qualify for the enhanced match rate by meeting the requirements in (c) and (d) above, its Federal match rate for JOBS and WORK (WORK operational costs) for the fiscal year in question would be reduced to a rate equal to the higher of FMAP and 60 percent (for all JOBS spending) and its Federal match rate for spending on the child care programs for that fiscal year would be reduced to FMAP.
- (f) A State would be permitted, beginning in FY 97, to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotment from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.

EXAMPLE:

A State with a \$5 million JOBS allotment and a \$6 million allotment from the WORK capped entitlement (see WORK FUNDING below) can allocate \$1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate \$600,000 from WORK to JOBS. The State can now draw down up to \$5.6 million, rather than \$5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only \$5.4 million in Federal matching funds, at the higher rate, for spending on WORK costs.

- (g) If the States did not claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State could draw down Federal funds for JOBS and/or WORK in excess of its allotments. The additional Federal funding would be drawn from the unobligated balance (JOBS and WORK money not spent by other States). A State would have to draw down its full allocations for both JOBS and WORK to be able to draw down unspent funds beyond these allotments (for spending on either program). This would require legislative authority to distribute unobligated funds from one fiscal year during the subsequent fiscal year and to distribute unliquidated obligations from a fiscal year during, not the succeeding fiscal year, but the one after that (two years afterward).

EXAMPLE:

During FY 99, seven States spend on JOBS and WORK at a level that would draw down Federal funding in excess of their allotments. The FY 99 JOBS and WORK allotments for the seven States total \$100 million, but the level of State match contributed for the two programs would enable the seven to draw down \$110 million in Federal funds, absent the limitations on State allocations, for a difference of \$10 million. The total amount of unobligated JOBS and WORK funding for FY 99 (based on States' drawing down JOBS and WORK funding only up to the level of their allotments) is \$7 million. Each of the seven States would receive 70 cents for each dollar of Federal funding it could potentially have drawn down beyond the level of its JOBS and WORK allotments. State A, which would have drawn down an additional \$1 million in Federal funding above its allocations, in the absence of any limitations, would receive \$700,000 in additional Federal funding. If the amount of unobligated JOBS and WORK funding exceeded \$10 million, the seven States would receive the full \$10 million in additional Federal funding.

- (h) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for

JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent). The adjustment to the match rate would become effective only if the State obligated sufficient funding to draw down its full allotments for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rate. The State could then, as described above, draw down unspent JOBS and WORK funds at the higher match rate.

EXAMPLE:

State A obligates sufficient funding to draw down its full allocations for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rates. The State match rate for JOBS and WORK is 25%, the total State contribution to both programs is \$1 million and its total Federal allotment for both programs is \$3 million. If the unemployment rate in State A for the fiscal year exceeded the trigger level (described above), the State match rate would be reduced from 25 to 22.5 percent. State A would then potentially draw down an additional \$450,000 (\$3.45 million minus \$3 million) in Federal funds. Referring to the example above, the \$450,000 would be placed in the pool with the \$10 million the seven aforementioned States could potentially draw down beyond the level of their allotments. If the unobligated balance for the fiscal year were sufficient, State A would receive the full \$450,000 and the seven other States would receive the full \$10 million. If not, each of the eight States would receive a pro-rated amount (e.g., 65 cents on the dollar).

- (i) The capped entitlement for JOBS for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the cap would be increased by an additional .25 percent. For example, if the unemployment rate for the last two quarters of the preceding fiscal year were 8.1 percent, the JOBS cap for the fiscal year would be increased by a total of 5.25 percent (2.5 percent for reaching 7 percent plus an additional 2.75 percent for the 1.1 percentage points over 7). Each State's allotment would increase accordingly.

In other words, a determination would be made at the beginning and in the middle of the Federal fiscal year as to whether the JOBS cap should be increased (i.e., whether the unemployment trigger level had been reached). If the cap were increased at the beginning of the year, an adjustment would not also be made at the middle of the year.

The same provision would apply to the capped entitlement for WORK (as described below) and to At-Risk Child Care.

- (j) Funding for teen case management (see TEEN PARENTS above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

13. SEMIANNUAL ASSESSMENT

Specifications

- (a) The State agency would be required, on at least a semiannual basis, to conduct a review of the employability plan for both JOBS participants and for deferred persons who had an employability plan in place, to evaluate progress toward achieving the goals in the plan. This assessment, which would be done in person, could be integrated with the annual AFDC eligibility redetermination. Persons in deferred status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be deferred. Other revisions to the employability plan would be made as needed.

- (b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to take steps to ensure that the services would be delivered from that point forward.

14. TRANSITION TO WORK/WORK

Specifications

- (a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. The employability plan would be modified accordingly. In most cases, the job search would be performed during the 45-90 days immediately preceding the end of the time limit.
- (b) The State agency would be required to schedule a meeting with any recipient approaching the end of the 24-month time limit at least 90 days in advance of that individual's reaching the limit. The State agency would, as part of the 90-day assessment, evaluate the recipient's progress and employability to determine if an extension were appropriate to, for example, complete a training program in which the recipient was currently enrolled (see EXTENSIONS below). The State agency would be required to inform the recipient, both in writing and at the face-to-face meeting, of the consequences of reaching the time limit--the need to register for the WORK program in order to be eligible for further support, in the form of a WORK assignment. Recipients would also be apprised of the requirement to engage in job search for the final 45-90 days and of the State's extension policy.
- (c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.
- (d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.
- (e) For persons re-entering the JOBS program (including those previously assigned deferred) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.
- (f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for an semiannual assessment.

Worker Support

- (g) States would be encouraged to use JOBS or WORK funds (from the capped WORK allocation; see below), to provide services designed to help persons who had left the JOBS or WORK programs for employment keep those jobs.

Services could include case management, work-related supportive services, and job search and job placement assistance for former recipients who had lost their jobs. Case management could entail assistance with money management, mediation between employer and employee and aid in applying for advance payments of the EITC. Work-related supportive services could include payments for licensing or certification fees, clothing or uniforms, auto repair or other transportation expenses and emergency child care expenses.

15. EXTENSIONS

Specifications

- (a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution and sanctioning procedures as was the initial development of the plan.
- (b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. All hearings would be held prior to the end of the individual's 24 months of eligibility.
- (c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it was determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).
- (d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).
- (e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS and subject to the time limit. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.

- (1) For completion of a GED program (extension limited to 12 months).
- (2) For completion of a certificate-granting training program or educational activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year college degree would be conditioned on simultaneous participation in a work-study program, or other part-time work (for at least an average of 15 hours per week).

The extension is contingent on the individual's making satisfactory academic progress, as defined by the Higher Education Act (extension limited to 24 months).

- (3) In cases of persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment. This would include a person with a serious learning disability whose employability plan to date has been designed to address that impediment and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

The State agency would be required to set a duration for each extension granted, sufficient to, for example, finish a training program already underway or, in the event of a State failure to provide services, to complete the activities in the employability plan.

- (f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.
- (g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see DEFERRAL above).
- (h) The Secretary would develop and transmit to Congress (see DEFERRAL above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommend that the cap be raised, lowered or maintained at ten percent.

16. QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY

Specifications

- (a) Persons who had left AFDC with fewer than six months of eligibility for AFDC benefits/JOBS participation remaining would qualify for a limited number of additional months of eligibility, to serve as a cushion. An individual in this category (fewer than 6 months of eligibility remaining) would qualify for one additional month of eligibility for every four months during which the individual did not receive AFDC and was not in the WORK program, up to a limit of six months of eligibility at any time.
- (b) Persons who left the WORK program would also be able to qualify for up to 6 months of eligibility for AFDC benefits/JOBS participation, just as described in (a).
- (c) Individuals re-entering the AFDC program would be subject to the up-front job search requirement, as described above under JOBS SERVICES.

ADMINISTRATION OF JOBS/WORK

Current law

By statute JOBS must be administered by the IV-A agency. State IV-A agencies may delegate to or contract (either through financial or non-financial agreements) with other entities such as JTPA to provide a broad range of JOBS services. The IV-A agency must retain overall responsibility for the program (including program design, policy-making, establishing program participation requirements) and any actions that involve individuals (including determination of exemption status, determination of good cause, application of sanctions, and fair hearings).

HHS/ACF makes grants to the IV-A agency based on the allocation formula outlined in the statute and holds the IV-A agency accountable for meeting participation and target group expenditure requirements as well as submitting all necessary program and financial reports.

Vision

JOBS and WORK would be administered by the IV-A agency unless the Governor designates another entity to administer the programs. If the Governor designates an agency other than the IV-A agency to administer JOBS/WORK, then any plan or other document submitted to HHS to operate the programs would be jointly submitted by the administering entity and the IV-A agency.

Based on the Governor's designation, HHS/ACF would make grants to the administering entity and hold that entity responsible for submitting program and financial reports and meeting appropriate performance standards.

In a State that elects to operate one-stop career centers, JOBS/WORK would be required components of the one-stop career centers.

17. OVERALL ADMINISTRATION

Specifications

- (a) JOBS and WORK must be administered by the same State entity.
- (b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV-A agency would administer JOBS/WORK.
- (c) The Governor would determine whether the State had a State-wide one-stop career center system. That determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.
- (d) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would have to enter into a written agreement outlining their respective roles in carrying out JOBS/WORK.

- (e) If the IV-A agency retained administration of JOBS, it would have the option of contracting with another entity or entities to carry out any and all functions related to JOBS/WORK. All contracts and agreements with such entities would be written.
- (f) If the Governor designated an entity other than the IV-A agency, then that agency and the IV-A agency would be required to jointly submit any plan required to operate JOBS/WORK to the Secretary of HHS.
- (g) Upon notification by the Governor of the designation of an entity other than the IV-A agency to administer JOBS/WORK, the Department of Health and Human Services would make all grant awards and hold accountable for all financial and reporting requirements the designated entity.

18. SPECIFIC RESPONSIBILITIES OF THE IV-A AGENCY

Specifications

- (a) No matter which entity has responsibility for JOBS/WORK, the IV-A agency must retain responsibility for:
 - (1) Determining eligibility for AFDC;
 - (2) Tracking and notifying families subject to the time limit of months left of eligibility;
 - (3) Applying sanctions;
 - (4) Making supplemental payments to eligible WORK participants and determining continuing eligibility for WORK and for AFDC payments;
 - (5) Notifying the JOBS/WORK agency at least 120 days before an individual's two-year time limit was up so that appropriate steps (e.g., job search) could be taken; and
 - (6) Holding fair hearings regarding time limits and cash benefits.

19. OTHER AREAS OF RESPONSIBILITY

Specifications

- (a) In States where an entity other than the IV-A agency is responsible for JOBS/WORK, we propose to give States the flexibility to determine how the following functions are carried out. The State plan would have to contain specific information detailing how the State intended to carry out the following functions:
 - (1) Determining deferral status;
 - (2) Granting extensions to the time limits; and
 - (3) Providing secondary reviews and hearings on issues specifically related to JOBS or WORK participation.

WORK

Current Law

There is at present under Title IV no work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, 45 CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (45 CFR 250.47).

Vision

The focus of the transitional assistance program will be helping people move from welfare to unsubsidized employment. The two-year time limit for cash assistance not contingent on work is part of this effort. Some recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to help support their families. The design of the WORK program will be guided by a principle central to the reform effort, that persons who work should be no worse off than those who are not working.

The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and not-for-profits to place persons in subsidized or unsubsidized private sector jobs.

The WORK program would take the form of a work-for-wages structure. Participants in WORK assignments would be paid for hours worked; individuals who missed work would not be paid for those hours.

Definition: The terms "WORK assignments" and "WORK positions" are defined as temporary, publicly-subsidized jobs in the public, private or not-for-profit sectors.

20. ESTABLISHMENT OF A WORK PROGRAM

Specifications

- (a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.

21. WORK FUNDING

Specifications

(a) There would be two WORK program funding streams:

- 1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.
- 2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers.

The capped entitlement would be for WORK operational costs, which would include expenditures to develop WORK assignments, placement bonuses to contractors and spending on other WORK program services such as supervised job search.

(b) A State would receive matching funds, up to the amount of the capped allocation, for expenditures for WORK operational costs at the WORK match rate, which would be set at the same level as the JOBS match rate (as described in JOBS FUNDING above). For expenditures on wages to WORK participants, including wage subsidies to private employers, a State would be reimbursed at its FMAP.

EXAMPLE: State A's allocation (annual) from the capped WORK entitlement for FY 99 is \$1.5 million. The State's WORK (and JOBS) match rate is 75 percent and its FMAP is 50 percent. The State spends a total of \$5.2 million on the WORK program--\$1.6 million to develop the WORK assignments, make performance-based payments to placement contractors, and provide job search services and \$3.6 million on wage subsidies to private employers and wages for WORK participants in the public and not-for-profit sectors. State A would be reimbursed for the \$1.6 million in spending on operational costs at the 75 percent capped allocation match rate, for a total of \$1.2 million in reimbursement at that rate. For the \$3.6 million in expenditures on WORK wages, the State would be reimbursed at the FMAP, for \$1.8 million in Federal dollars from the uncapped stream and a total of \$3 million in Federal matching funds.

As discussed in JOBS FUNDING above, the enhanced match rate would become effective upon statewide implementation of the new legislation, provided the State met the maintenance of effort requirement concerning its total spending for JOBS, WORK and for IV-A, Transitional and At-Risk Child Care. Prior to statewide implementation, the WORK match rate would be set at the higher of FMAP and 60 percent.

(c) The WORK capped entitlement would be set at \$200 million for FY 1998, \$700 million for FY 1999, \$1.1 billion for FY 2000, \$1.3 billion for FY 2001, \$1.4 billion for FY 2002, \$1.6 billion for 2003 and \$1.7 billion for 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the WORK capped entitlement would be set at \$1.7 billion adjusted for inflation by the CPI and for the increase over time in the relative size of the phased-in group.

- (d) As discussed above (see JOBS FUNDING), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa. A State would be permitted to reallocate up to 10% of its JOBS funding for FY 97 (the year prior to implementation of the WORK program) to cover WORK program start-up costs.
- (e) If, as described in JOBS FUNDING, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be able to draw down Federal funds, for WORK spending on operational costs, in excess of its allotment from the capped entitlement.
- (f) As discussed in JOBS FUNDING above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.
- (g) The capped entitlement for WORK for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the WORK cap would be increased by an additional .25 percent. (Identical to the provision concerning lifting the cap on JOBS funding; see JOBS FUNDING)

22. FLEXIBILITY

Specifications

- (a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:
 - Offer wage subsidies and other incentives to for-profit, not-for-profit and public employers;
 - Execute performance-based contracts with private firms, not-for-profit or public organizations to place WORK participants in unsubsidized jobs;
 - Make payments to not-for-profit employers to defray the cost of supervising WORK participants;
 - Support microenterprise and self-employment efforts; or
 - Make payments to not-for-profit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services, or to employ participants as, for example, mentors to teen parents on assistance.
 - Employ WORK participants as child care workers or home health aides.

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

23. LIMITS ON SUBSIDIES TO EMPLOYERS

Specifications

- (a) An individual could hold a particular WORK assignment (i.e., the WORK subsidy could be paid) for no more than 12 months. Ideally, after the subsidy ended, the employer would retain the WORK participant in unsubsidized employment.
- (b) The Secretary may adopt, as necessary, regulations to assure the appropriate use of the wage subsidy (e.g., to prevent fraud and abuse).

24. COORDINATION

Specifications

- (a) The agency administering the WORK program would be required to coordinate delivery of WORK services with the public, private and not-for-profit sectors, including local government, large and small businesses, United Ways, voluntary agencies and community-based organizations (CBOs). Particular attention should be paid to involving the breadth of the community in the development of the WORK program in that locality.
- (b) The State would be required to designate in the State plan, or describe a process for designating, bodies to serve as WORK advisory/planning boards for each JTPA Service Delivery Area in the State (or for such larger or smaller area as the State deems appropriate). The WORK planning board, which could be either an existing or a new body, would assist the administering entity in operating the WORK program in that area. The State would be mandated to involve local elected officials in the designation or establishment of such boards.

The planning board would work in conjunction with the WORK program agency to identify potential WORK assignments and opportunities for movement into unsubsidized employment, and to develop methods to ensure compliance with the requirements relating to nondisplacement, working conditions and coordination (as described in this section). WORK planning boards would have to include union and private, public (including units of general purpose local government) and not-for-profit (including CBOs) sector representation.

- (c) States would have to establish a process by which WORK planning boards could submit comments regarding the development of the State plan.
- (d) The WORK agency would be required to include in the State plan provisions for coordination with the State comprehensive reemployment system (including the Employment Service) and other relevant employment and public service programs in the public, private and not-for-profit sectors, including efforts supported by the Job Training Partnership Act or the National and Community Service Trust Act of 1993.

25. RETENTION RECORDS

Specifications

- (a) States would be required to keep a record of the rate at which employers (public, private and not-for-profit) retained WORK program participants (after the subsidies ended). Similarly, States would be mandated to monitor the performance of placement firms.

26. NONDISPLACEMENT

Specifications

- (a) The assignment of a participant to a subsidized job under the WORK program would not --
 - (1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;
 - (2) impair existing contracts for services or collective bargaining agreements;
 - (3) infringe upon the promotional opportunities of any currently employed worker;
 - (4) result in the employment of the participant or filling of a position when --
 - (a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or
 - (b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with such participant; or
 - (5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted and are available, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days.
- (b) A participant would not be assigned to a position with a private, not-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

27. GRIEVANCE, ARBITRATION AND REMEDIES

Specifications

- (a) Each State would establish and maintain grievance procedures for resolving complaints by regular employees or their representatives, alleging violations of the nondisplacement provisions (described above).
- (b) Hearings on any grievance filed pursuant to the provision above would be conducted within 30 days of the filing of such grievance and a decision would have to be made within 60 days of the filing. Except for complaints alleging fraud or criminal activity, a grievance would be made not later than 45 days after the date of the alleged occurrence.
- (c) Upon receiving a decision, or if 60 days has elapsed without a decision being made, a grievant may do either of the following:
 - (1) file an appeal as provided for in the State's procedures or in regulations promulgated by the Secretary, or
 - (2) submit such grievance to binding arbitration in accordance with the provisions of this section.

Arbitration

- (d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.
- (e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grievance.
- (f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.
- (g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.
- (h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

Remedies

- (i) Remedies for a grievance filed under this section include —
- (1) suspension of payments for assistance under this title;
 - (2) the termination of such payments;
 - (3) the prohibition of the placement of a participant;
 - (4) reinstatement of a displaced employee to the position held by such employee prior to displacement;
 - (5) payment of lost wages and benefits of the displaced employee;
 - (6) reestablishment of other relevant terms, conditions and privileges of the displaced employee; and
 - (7) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

28. CONSULTATION WITH LABOR ORGANIZATIONS**Specifications**

- (a) No assignment of a participant to a position with an employer shall be made unless any local labor organizations representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out by such participant are consulted regarding such an assignment.

29. WORK ELIGIBILITY CRITERIA AND REGISTRATION PROCESS**Specifications**

- (a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.
- (b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see TRANSITION TO WORK/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES below).
- (c) States would be required to establish a registration process for the WORK program. The registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual has the ability to perform and which will assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment.

States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the registration procedure.

- (d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.
- (e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but had not qualified for any additional months of AFDC benefits/JOBS participation (see QUALIFYING FOR ADDITIONAL MONTHS OF ELIGIBILITY above) would be permitted to enroll, or re-enroll, in the WORK program.

EXAMPLE:

A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before qualifying for any months of AFDC benefits/JOBS participation (see above). This person would be eligible for the WORK program.

- (f) States would be required, for persons in WORK assignments, to conduct a WORK eligibility determination (similar to an AFDC eligibility determination in all respects, except that WORK wages would not be included in countable income; see below) on a semiannual basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC, the participant would be permitted to remain in the WORK assignment until the semiannual redetermination. An individual found to be ineligible for the WORK program as of the redetermination, however, would not be permitted to continue in that WORK assignment. Persons found to be ineligible for the WORK program would not have access to a WORK assignment, other WORK program services or to the AFDC benefits provided to persons in the WORK program who were not in WORK assignments.
- (g) WORK wages would not be included in countable income for purposes of determining WORK eligibility. WORK wages would be included in countable income for purposes of calculating any supplemental AFDC benefit (see below).

30. ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES

Specifications

- (a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position.
- (b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include WORK participants who had completed an initial WORK assignment without finding unsubsidized employment, participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct.

Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see SANCTIONS).

- (c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).
- (d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).
- (e) Participants who left a WORK assignment for good cause (see SANCTIONS below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).
- (f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits—States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. HOURS OF WORK

Specifications

- (a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 35 hours per week during a month.

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

32. EARNINGS SUPPLEMENTATION

Specifications

- (a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job of at least 20 hours per week were not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an AFDC benefit sufficient to leave the family no worse off than a family of the same size that was on AFDC and had no earned income.

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- (b) With respect to eligibility and benefit determination, AFDC benefits for families described in (a) above would be identical to AFDC benefits for persons who had not reached the two-year time limit, except that the supplemental AFDC benefit would not be adjusted up due to failure to work the set number of hours for a WORK assignment.
- (c) The work expense disregard for the purpose of calculating any supplemental AFDC benefit would be set at the same level as the standard \$120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

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

Specifications

- (a) Except as otherwise provided in these specifications, wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, SSI, Medicaid, public and Section 8 housing).
- (b) WORK registrants and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid (pending implementation of the Health Security Act). Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.
- (c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).
- (d) Earnings from WORK positions would not be included in Adjusted Gross Income (AGI) and would not be treated as earned income for the purpose of calculating the Earned Income Tax Credit.
- (e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.
- (f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.
- (g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.
- (h) With respect to the distribution of child support, WORK program participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK program participant were receiving AFDC benefits in addition to WORK program wages, child support would be treated just as it would for a family receiving AFDC benefits (generally, a \$50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the supplemental AFDC benefits).

34. SUPPORTIVE SERVICES/WORKER SUPPORT**Specifications**

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

35. WAGES AND WORKING CONDITIONS**Specifications**

- (a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—
 - (1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
 - (2) the rate specified by the appropriate State or local minimum wage law;
 - (3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided benefits, working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with such employer.
- (c) Employers would be expected to provide WORK participants health insurance coverage comparable to that provided other employees of that same employer performing the same type of work (with Medicaid serving as the secondary payer). WORK program funds would be available to subsidize the employer share of the cost of health insurance coverage. Exceptions to this requirement could be made in cases in which the provision of such coverage would be inordinately expensive or otherwise onerous.

NOTE: Under current law, a Medicaid recipient is required (if cost effective) to enroll in a health plan offered by an employer, and the State is required to use Medicaid funds to cover the full employee share (e.g., premiums, deductibles, copayments) of the cost of such health care coverage. Cost effective is defined as resulting in a net reduction in Medicaid expenditures.

- (d) Employers would not be required to make contributions to retirement systems or plans on behalf of WORK participants.

- (e) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who became ill and exhausted her or his sick leave, or whose child required extended care, would be deferred from the WORK program if he or she met the deferral criteria.
- (f) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be deferred for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).
- (g) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

36. SANCTIONS/PENALTIES (JOBS AND WORK)

Current Law (JOBS)

The sanction for the first instance of failure to participate in JOBS as required (or failure to accept a private sector job or other occurrence of noncompliance) is the loss of the non-compliant individual's share of the grant until the failure to comply ceases. The same sanction is imposed, but for a minimum of 3 months, for the second failure to comply and for a minimum of 6 months for all subsequent instances of non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment, if that employment would result in a net loss of income for the family.

For sanctioned AFDC-UP families, both parents' shares are deducted from the family's grant, unless the second parent is participating in the JOBS program.

Specifications

JOBS Sanctions

- (a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:
 - (i) A conciliation process that meets standards established by the Secretary; or
 - (ii) A process whereby recipients are notified, prior to the issuing of a sanction notice, that they are in apparent violation of a program requirement and that they have 10 days to contact the State agency to explain why they were not out of compliance or to indicate their intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.
- (b) Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid. Sanctioned months would be counted against the 24-month time limit.

- (c) The sanction for refusing, without good cause, an offer of an unsubsidized job meeting the minimum work standard would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below).
- (d) Current law would be changed such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participate in JOBS and were similarly non-compliant.
- (e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

Ineligibility for a WORK Assignment

- (f) Persons may be declared ineligible for a WORK assignment due to misconduct related to the program. Misconduct would include any of the following, provided good cause does not exist:
 - i. Failure to accept an offer of unsubsidized employment;
 - ii. Failure to accept a WORK assignment;
 - iii. Quitting a WORK assignment;
 - iv. Dismissal from a WORK assignment;
 - v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).
- (g) The Secretary would establish regulations defining good cause for each of the following:
 - i. **Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.**
 - ii. **Quitting a WORK Assignment or Unsubsidized Job.** These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.
 - iii. **Dismissal from a WORK Assignment.** The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV-A agency might be allowed to contract with the State UI hearing system to adjudicate these cases.)
- (h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from date of request for hearing). A State would be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

(i) Recipients awaiting a hearing for alleged misconduct may be required to participate in interim WORK program activities. Refusal, pending the hearing, to participate in such WORK program activities on the same grounds (e.g., bedridden due to illness) claimed as cause for the original alleged misconduct would not constitute a second occurrence of potential misconduct.

(j) Penalties imposed would be as follows:

i. **Refusal to Accept an Offer of Unsubsidized Employment.** A WORK participant who turned down an offer of an unsubsidized job without good cause would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.

ii. **Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause.** A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

For a first occurrence: The family would receive 50% of the AFDC grant that would otherwise be provided (i.e., if the individual were not sanctioned and were awaiting a WORK assignment) for one month or until the individual accepts a WORK assignment, whichever is sooner.

For a second occurrence: Fifty percent (50%) reduction in the family's grant for 3 months. The individual would not be eligible for a WORK assignment during this period--this penalty would not be curable upon acceptance of a WORK assignment.

For a third occurrence: Elimination of the family's grant for a period of 3 months. As with a second occurrence, the individual would not be eligible for a WORK assignment during this period.

For a fourth and subsequent occurrence: Same as the penalty for a third occurrence, except that the duration would be 6 months.

The State would be required to make job search assistance available to such penalized persons (any occurrence, first or subsequent) if requested.

iii. **Refusal to Participate in Job Search or Other Required WORK Program Activity.** An individual who refused to participate in job search (e.g., following a WORK assignment) or other required WORK program activity would be subject to the same penalty as persons who quit or were fired from WORK assignments, with each refusal to be considered one occurrence. If such a refusal constituted the first occurrence, the penalty, as above, would be curable upon engaging in the required activity.

iv. **Quitting an Unsubsidized Job without Good Cause.** Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard would

not be eligible to register for the WORK program for a period of 3 months following the quit.

- (k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating any supplemental AFDC grant. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive a supplemental AFDC benefit sufficient to make up the difference (see EARNINGS SUPPLEMENTATION above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).
- (l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.
- (m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.
- (n) As described under AFDC-UP FAMILIES AND THE TIME LIMIT above, if one of the two parents in AFDC-UP family is sanctioned under the WORK program or under JOBS for failure to accept an unsubsidized job, the sanctions described in this section apply, regardless of the status of the other parent.
- (o) The State would be required, upon imposition of a second WORK sanction, to conduct a thorough evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be deferred from WORK participation or that he or she should receive intensive counseling.

37. JOB SEARCH

Specifications

- (a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment to a WORK program activity serving as an alternative to a WORK assignment (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES). The number of hours per week (up to a maximum of 35) and the duration of periods of required job search would be set by the State, consistent with regulations to be promulgated by the Secretary.
- (b) The State could also require WORK participants to engage in job search while in a WORK assignment, provided that the combined hours of work and job search did not exceed an average of 35 per week and the requirement was consistent with regulations to be promulgated by the Secretary. The number of hours for job search would be the expected time to fulfill the particular job search requirement, i.e., if a WORK participant were expected to make 5

contacts per week, the number of hours of job search would be the estimated number of hours needed to make the contacts.

38. ASSESSING PARTICIPATION IN WORK BEYOND 2 YEARS

Specifications

- (a) At the end of the two consecutive WORK assignments, participants who have not found unsubsidized work would be assessed on an individual basis, with three possible results:
 - 1) Participants determined to be unable to work or to need additional training would be deferred from WORK or re-assigned to the JOBS program.
 - 2) Those determined to be unable to find work in the private sector either because there were no jobs available to match their skills or because they were incapable of working outside a sheltered environment would be allowed to remain in the WORK program for another assignment. Similar assessments would be conducted following each subsequent assignment.
 - 3) At State option, those who were employable and who lived in an area where there were jobs available to match their skills could be required to engage in intensive job search supervised by a job developer, who would be able to require participants to apply for appropriate job openings to determine if they were not making good faith efforts to find jobs. Failure to apply for appropriate job openings, noncooperation with the job developer or employer, or refusal to accept a private sector job opening without good cause would result in ineligibility for either WORK or AFDC benefits for 6 months. After 6 months of ineligibility, the person would immediately be given another individual work assessment and could again be denied eligibility for noncooperation or refusal to accept a job.
- (b) The Departments of HHS and Labor will undertake a comprehensive national study at the end of the second year following implementation of the WORK program to measure the program's success in moving people into unsubsidized jobs and to evaluate the skill levels and barriers to work of the persons who have spent two years in the WORK program.

39. SECRETARY'S FUND FOR STATES THAT SPEND BEYOND THEIR JOBS/WORK CAPS

Vision

Establish a fund that the Secretary will use to provide additional funding for States that spend beyond their JOBS/WORK allotments and re-allotments. A sum of \$300 million will be put into the fund initially. Thereafter, any unspent JOBS/WORK and At-Risk child care monies will contribute to the Fund.

Rationale

The Secretary's Fund gives the Department the ability to allocate overall JOBS/WORK program funds prudently and, at the same time, provide additional support to States that are aggressively implementing their programs and require more than what they receive under their standard allotment and re-allotments. Furthermore, under this program, States are given some lead time so they can anticipate the additional funding in their planning processes.

Specifications

- (a) A fund of \$300 million would be established for FY 96 for use by the Secretary to provide funding to States that needed additional funding for JOBS (and subsequently JOBS or WORK) beyond what they were provided under the JOBS and WORK funding allocation formulas and subsequent reallocation procedures (see JOBS FUNDING and WORK FUNDING above).
- (b) Twice each year (March 1 and September 1), States that obligated 95% of their JOBS and WORK allotments for the previous year and were expected to obligate their full JOBS and WORK allotments for the current year would qualify for additional funding from the Secretary's Fund for the next fiscal year.
- (c) Thirty days later, States would be notified about final decisions on funding from the Secretary's Fund.

[Regulations would specify how the monies would be allocated among qualified States. If the total amount requested from the Fund were greater than what was available in the fund, monies would be allocated based on a procedure to be developed by the Secretary.]
- (d) Monies from the fund would be treated just like the basic JOBS/WORK allotment and subject to the same Federal matching rates each year as is in effect for standard JOBS/WORK funding. The same between-program reallocation rules as those for the base JOBS/WORK funding also are in effect. That is, States can move an amount up to 10% of the combined JOBS and WORK monies from the Fund from one program to the other.
- (e) The monies available in the Fund in FY 97 would come from two sources:
 - i. The original authorization level of \$300 million, and
 - ii. Unspent State JOBS/WORK and At Risk child care monies — that hadn't been reallocated to the States that have drawn down their full allocations.
- (f) Beginning in fiscal 98, the Secretary's Fund will be capped at a net level of \$400 million after all requests have been satisfied. Excess monies will revert to the Treasury.
- (g) Beginning in FY 98, States can request monies for both JOBS and WORK. The monies from the Secretary's Fund that States add to their standard WORK program allocation will be included for purposes of determining the minimum number of WORK slots States must create.

ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Vision

We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer. Just as we expect more of mothers, we cannot let fathers just walk away. A number of programs show considerable promise in helping non-custodial parents to reconnect with their children and fulfill their responsibility to support them. Some programs help non-custodial parents do more by seeing that they get the skills they need to hold down a job. Other programs give non-custodial parents the opportunity to meet their child support obligations through work.

As there is not a long track record of research and evaluation on programs for non-custodial parents, it is envisioned that new programs should be modest and flexible, growing only as evaluation findings begin to identify the most effective strategies.

I. TRAINING AND EMPLOYMENT FOR NON-CUSTODIAL PARENTS

Current Law

Section 482 of the Social Security Act (Title IV-F) permits the Secretary to fund demonstrations to provide services to non-custodial parents. The Secretary is limited as to the number of projects that can be funded under this provision. Evaluations are required. This provision, along with section 1115 of the Social Security Act, provide the authority for the Parents Fair Share Demonstrations currently underway.

Vision

States would be provided with the option of developing JOBS and/or work programs for the non-custodial parents of children who were receiving AFDC or have child support arrearages owed to the State from prior periods of AFDC receipt. States would be given the flexibility to develop different models of non-custodial parent programs which could best address the needs of children and parents in their state. These non-custodial parent programs would coordinate with other relevant efforts such as the public housing authorities' Resident Initiatives Programs, which make job and services available to non-custodial parents of children living in public housing. Evaluations would be required as appropriate for the options developed by the States.

Rationale

There is evidence that one of the primary reasons for non-support by some non-custodial parents is unemployment and underemployment. In a recent GAO report evidence was presented that about 29 percent of non-custodial fathers under age 30, many of whom were non-marital fathers, had income below the poverty level for one or no income at all. It will be difficult for these fathers to contribute much to the financial support of their children without additional basic education, work-readiness and job training which would enhance their earning capacity and job security.

Specifications

- (a) A State would be able to spend up to 10 percent of its JOBS and WORK funding (allotment from the WORK capped entitlement) for training, work readiness and work opportunities for

non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.

- i. Parenting and peer support services offered in conjunction with other employment-related services would be eligible for FFP.
 - ii. A State could structure the service delivery in a variety of ways. For example, a State could provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single combined program.
- (b) A non-custodial parent would be eligible to participate (1) if his or her child were receiving AFDC or the custodial parent were in the WORK program at the time of referral or (2) if he or she were unemployed and had outstanding AFDC child support arrears. Paternity, if not already established, would have to be voluntarily acknowledged or otherwise established prior to participation in the program and, if an award had not yet been established, the non-custodial parent would have to be cooperating in the establishment of a child support award. Arrears would not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with no identifiable income, participation could commence as part of the establishment or enforcement process.
- (c) The state would be required to allow a non-custodial parent to complete the program activity or activities in which he was currently enrolled even if the children became ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, were placed in a job, or were terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.
- (d) States would not be required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they could choose to do so. Participation in the JOBS program would not be a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation would not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.
- (e) Payment of stipends for work would be required. Payment of training stipends would be allowed. All stipends would be eligible for FFP.
- i. Stipends would have to be garnished for payment of current support.
 - ii. At State option, the (current) child support obligation could be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order.
 - iii. Participation in program activities could be credited against AFDC child support arrears owed the State.
 - iv. State-wideness requirements would not apply.

INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS:
JOBS, TIME LIMITS, WORK AND CHILD CARE

Provisions in this section apply specifically to Indian tribes and Alaska Native organizations.

JOBS AND TIME LIMITS

1. NEW TRIBAL JOBS FUNDING FORMULA

Current Law

Under current law, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Indians living on the same reservation are currently subject to either the Tribal JOBS program or the State JOBS program depending on Tribal affiliation. Indians living in Alaska who are not Alaska Natives are subject to the State's JOBS program.

Tribal JOBS grantees currently receive funding based on a count of just under 31,000 adult Tribal members who receive AFDC. It is estimated that the adult AFDC population for all reservations (including those where a Tribal JOBS program does not exist) is 58,000.

Vision

All Native Americans living within the designated service area of an Indian tribe or Alaska Native organization would be subject to the tribal JOBS program regardless of tribal affiliation, if the tribe elects to run a JOBS program.

Rationale

Programs operated by the Department of Labor and the Bureau of Indian Affairs for Indians do not use Tribal affiliation to establish program funding or eligibility.

Specifications

- (a) All Indians, living within the designated service area of an Indian tribe or within the boundaries of the region served by an Alaska Native organization which is a JOBS grantee, would be included in determining the amount of the grantee's JOBS funds.
- (b) An Indian is one who meets the definition of Indian as given in section 4(d) of the Indian Self-Determination and Education Assistance Act.

2. NEW JOBS APPLICATION PERIOD

Current Law

Under current law, Indian tribes and Alaska Native organizations had until April 13, 1989 to apply and until October 1, 1990 to begin operating a JOBS program. Indian tribes who did not meet these deadlines are prohibited from submitting applications to operate JOBS programs.

Vision

Indian tribes who did not meet the application deadline for JOBS would be given additional opportunity to do so.

Rationale

The window in which Indian tribes had to apply for JOBS was very limited. Other Federally funded formula grant programs available to Indian tribes do not have similar restrictions.

Specifications

- (a) All federally recognized Indian tribes not operating a JOBS program may submit applications and plans to do so.
- (b) There would be no new application deadline.
- (c) New applications/plans would have to be submitted by July 1 of each year, with the effective date of approved plans to be October 1.
- (d) An Indian tribe or Alaska Native organization who terminates or has its JOBS program terminated will be eligible to reapply for JOBS after a five year period. Such Indian tribe or Alaska Native organization can reapply by July 1 of the fifth year by submitting an application and plan, with the effective date of an approved plan to be October 1. (This is to prevent a Tribal grantee from frequently entering and leaving the program.)
- (e) The current restriction that an Indian tribe must have a reservation to be eligible to operate a JOBS program would be retained.

3. FUNDING SET-ASIDE FOR TRIBAL JOBS GRANTEES

Current Law

Currently, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Yearly, Tribal grantees (includes Alaska Native organizations) and the State in which they are located must reach an agreement on the number of Tribal members who receive AFDC who reside within the grantee's designated service area. Any amount due a grantee by this agreement is deducted from the JOBS funding allocated to the State.

Although in some cases it does not cause problems, States and Indian tribes/Alaska Native organizations have found it difficult to come to agreement on the number of adult Tribal members who receive AFDC.

Vision

A set-aside of 2% out of total JOBS funds would be established to distribute to Indian tribes and Alaska Native organizations to provide JOBS.

The proposed percentage set-aside for Tribal JOBS grantees was determined based on two assumptions. First, that Indian tribes who do not currently operate a JOBS program will be given the opportunity to do so. Second, that all Indians, not just Tribal members, will determine Tribal funding. Using these assumptions, it is estimated that almost 2% (58,000 individuals) of the eligible adult AFDC population are Indians living on or near reservations or in areas served by Alaska Native organizations.

Rationale

Additional funding for the tribal JOBS grantees would make up for the lack of matching funds. States spent approximately \$1,395 per JOBS participant from Federal and State matching funds in FY 93. Indian tribes spent approximately \$935 per JOBS participant, all from federal funds as tribes are not required to provide matching funds.

Establishing a set-aside in lieu of the current funding formula would benefit both the Indian tribes, Alaska Native organizations and the States. States would not have any vested interest in the number of adult AFDC recipients who are Indians residing within a Tribal grantee's designated service area as the numbers would not have an impact on the States' JOBS allocations.

Funding for Indian tribes in the Child Care and Development Block Grant (CCDBG) program is a set-aside of the total allocated CCDBG funds.

Specifications

- (a) Allocate a set aside of 2% of the total JOBS allocation to Indian tribes and Alaska Native organizations.
- (b) Each grantee's share of the set aside would be determined by its percentage share of the entire adult Indian AFDC population which is living on or near reservations or within the boundaries of the region represented by an Alaska Native organization.
- (c) Provide for a periodic review of the percentage set-aside to ensure that it is based on an accurate percentage of adult AFDC recipients who are Indians living in the designated service area of a grantee. Provide for an automatic adjustment of the set-aside based on the results of this review.
- (d) The remainder of the funding issued to an Indian tribe or Alaska Native organization who wishes to terminate or who have their programs terminated after the start of a fiscal year would revert to the State in which the Indian tribe or Alaska Native organization is located.

This is because the State would then be responsible for serving the AFDC recipients who had been subject to the Tribal program.

- (e) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.

4. CARRY-OVER OF FUNDS

Current Law

States, Indian tribes and Alaska Native organizations are currently prohibited from carrying over federal funds awarded in one fiscal year to the next fiscal year. All federal funds received in a fiscal year must be obligated by the end of the same fiscal year. Indian tribes and Alaska Native organizations have sometimes had to shut down their JOBS programs because new fiscal year funding is often not received until November. Unlike States which are in a position to use their own resources for operating JOBS pending the issuance of grant awards, Indian tribes and Alaska Native organizations do not have this luxury. States also have the advantage of the Cash Management Improvement Act (CMIA) which does not apply to Indian tribes and Alaska Native organizations. CMIA says that the Federal government must pay interest to States if States are forced to use State funds for something for which Federal funds are normally used. Thus, for example, States were issued a portion of their fiscal year 1994 JOBS funds a month before Indian tribes and Alaska Native organizations were issued any funds.

Without timely grant awards and without forward funding, Indian tribes and Alaska Native organizations either had to cease the program or use other limited tribal funds in the interim.

Vision

The JOBS programs operated by Indian tribes and Alaska Native organizations will not have to cease operation at the beginning of a fiscal year due to the non-timely issuance of new grant awards.

Rationale

The Job Training Partnership Act program under the Department of Labor has authority for forward funding. JTPA grantees are permitted to carry over a maximum of 20% of funds from one program year to the next.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate JOBS programs would be permitted to carry over no more than 20% of the funds awarded in one fiscal year into the next fiscal year.

5. JOBS FUNDS FOR ECONOMIC DEVELOPMENT

Current Law

Under current law, JOBS funds cannot be used to build/improve infrastructure which is so badly needed by Indian tribes and in areas served by Alaska Native organizations. JOBS funds cannot be combined with economic development funds to write proposals, make capital expenditures, etc. Indian tribes and Alaska Native organizations can apply for grants from ACF's Administration for Native Americans that if received can be used to support these activities. What Indian tribes and Alaska Native organizations can and what some do is to use JOBS funds to train individuals to work in economic development enterprises.

Vision

Allowing tribal JOBS grantees to denote a portion of their JOBS funds to economic development would give them additional opportunity to help their clients move towards self-sufficiency.

Rationale

Without the leveraging of Federal funds for economic development, there will be fewer employment opportunities for Native Americans.

Specifications

- (a) Upon approval by the Secretary, Indian tribes and Alaska Native organizations would be permitted to use no more than \$5,000 or 10%, whichever is less, of their JOBS funds on economic development related projects.
- (b) All economic development related projects that use JOBS funds must involve the training of JOBS participants for related jobs.

6. DEFERRALS

All provisions in the discussion on deferrals above apply except for the following.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether an AFDC recipient is to be deferred.

7. EXTENSIONS

Vision

Tribal JOBS grantees will be responsible for granting extensions to time limited AFDC benefits and will not necessarily be held to the same limitation on the granting of extensions as will be the States.

Rationale

Many reservations and areas served by Alaska Native organizations suffer from lower literacy rates and higher unemployment than most areas of the country.

Specifications

- (a) Indian tribes and Alaska Native organizations who operate a JOBS program will be responsible for the determination as to whether extensions to time limited AFDC benefits should be granted.

WORK

1. INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS TO OPERATE THEIR OWN WORK PROGRAMS

Current Law

Refer to this section under the general discussion of the WORK program.

Vision

Tribal AFDC recipients would be subject to the requirement to participate in JOBS just as they are now. They would also be subject to time limits.

Indian tribes and Alaska Native organizations would have the option to run JOBS. An Indian tribe or Alaska Native organization that operates JOBS would be required to operate a WORK program also. Indian tribes and Alaska Native organizations are responsible for determinations of JOBS-Prep status and extensions; however, there may be additional extensions because of unique tribal circumstances. Tribal members subject to tribal JOBS/WORK programs are excluded from any State program measures.

The Tribal WORK program will have to look different from the State WORK program because of the proposed funding formula. The portion of the WORK funding based on a diversion of AFDC grants would be difficult and complicated to accomplish because of the State's continued responsibility for AFDC funds and the need for extremely close coordination between the State and the Indian tribe or Alaska Native organization. Therefore, it is envisioned that the tribal WORK program will more closely resemble a Community Work Experience Program (CWEP) than a work for wages model (i.e., a tribal member would continue to receive cash assistance, but would be required to participate in a WORK activity). Indian tribes and Alaska Native organizations would be able to use WORK allocation to create job opportunities.

Rationale

Since the Indian tribes and Alaska Native organizations would have to be involved in the development of WORK assignments on the reservation, it follows that the Indian tribes and Alaska Native organizations be given the administration of the WORK program. Keeping the WORK program at the tribal level will allow for a continuum of activity. It also advances tribal self-determination and provides for a more holistic framework for addressing the needs of Native Americans.

Specifications

- (a) Indian tribes and Alaska Native organizations which operate a JOBS program would apply to administer a WORK program. Any application will have to be approved by the Secretary.
- (b) Indian tribes and Alaska Native organizations who do not want to operate a WORK program could not continue to operate a JOBS program.

- (c) Funding for the tribal WORK program would be a percentage set-aside of the total WORK allocation.
- (d) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vice versa.
- (e) An Indian tribe or Alaska Native organization would not be required to match Federal funds.
- (f) The WORK program set forth in the application of a Indian tribe or Alaska Native organization under this part need not meet any requirement of the State WORK program that the Secretary determines is inappropriate with respect to a tribal WORK program.
- (g) The Secretary shall develop appropriate data collection requirements.
- (h) Appropriate performance measures will be developed.

CHILD CARE

1. ALLOCATE JOBS AND TRANSITIONAL CHILD CARE FUNDS TO TRIBES AND ALASKA NATIVE ORGANIZATIONS

Current Law

Under current law, States are the only entities eligible to administer title IV-A child care funds. Participants in Tribal JOBS programs who need child care have to be referred to the State IV-A agencies in order to receive needed child care.

Although data is not collected on the extent that title IV-A child care is used by Tribal JOBS participants, anecdotal information from Tribal JOBS directors seems to indicate that Tribal JOBS participants do not always get their child care needs taken care of through the State. Potential child care providers on reservations are often intimidated or unable to provide necessary information to the State in order to meet State requirements. Indian tribes and Alaska Native organizations that receive Child, Care and Development Block Grant (CCDBG) funds sometimes use these funds to pay the cost of the child care to avoid dealing with the State. By using CCDBG funds to pay for the child care needed by Tribal JOBS participants, the Indian tribe or Alaska Native organization cannot use the funds to serve the child care needs of others who qualify.

Vision

Indian tribes and Alaska Native organizations would not have to rely the State IV-A agencies to guarantee the child care needed by Tribal JOBS participants and transitional child care. Funding the Tribal JOBS grantees to guarantee child care makes it easier for these entities to ensure that Tribal child care needs are met. Tribes would be provided funding for child care up to an amount equal to their JOBS/WORK allotment from title IV-A funds to address JOBS and transitional child care needs.

Rationale

Indian tribes and Alaska Native organizations who currently rely on the use of CCDBG to provide child care that is the responsibility of the State IV-A agency will be able to use CCDBG funds for their intended purpose once JOBS and transitional child care funds are available to them. The amount of child care funding available to the Indian tribes and Alaska Native organizations from title IV-A funds for JOBS and transitional child care and CCDBG should be sufficient to meet the child care needs without the additional funding provided by At-Risk Child Care. Therefore, it is not being recommended to fund the Indian tribes and Alaska Native organizations directly for the At-Risk Child Care program at this time. However, we are adding a provision to give the Secretary authority to determine that there is a need in the future and to allocate funds for At-Risk Child Care to tribal programs at that time.

Specifications

- (a) Upon an approved application, all Indian tribes and Alaska Native organizations that operate a JOBS/WORK program would be allowed to administer title IV-A JOBS and transitional child care funds.
- (b) Tribes that elect to administer title IV-A JOBS and transitional child care funds will receive reimbursement from title IV-A funds for the actual amount spent on child care up to an amount equal to their combined JOBS and Work allotment.
- (c) Indian tribes and Alaska Native organizations would not be required to match Federal funds.
- (d) The JOBS and transitional child care program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the JOBS and transitional child care programs that the Secretary determines is inappropriate with respect to such tribal JOBS and transitional child care program.
- (e) The Secretary shall develop appropriate data collection requirements.
- (f) Appropriate performance measures will be developed.
- (g) Provide for the periodic review of the child care allotment to ensure that it is sufficient to meet the JOBS and transitional needs of tribal grantees. Provide for an automatic adjustment in the allotment based on the results of this review.
- (h) The Secretary has the authority to conduct a study of the use of JOBS and transitional child care by Indian tribes and Alaska Native organizations to determine if child care needs are being met. If there are unmet child care needs, the Secretary has the authority to award At-Risk child care funds to Indian tribes and Alaska Native organizations through a set-aside.

MISCELLANEOUS

1. Technical Assistance, Demonstrations and Evaluations

Current Law

The three year contract awarded in 1990 to provide technical assistance to Tribal JOBS grantees expired last year. Tribal JOBS grantees are not eligible to operate demonstration projects. And evaluations of the Tribal JOBS programs have not been done.

Vision

To gain more thorough information about what makes a successful Tribal or Alaska Native JOBS program, evaluation is needed just as it is for State programs.

Rationale

Welfare reform will be a major force in Indian country. Whatever form welfare reform will take, Indian tribes and Alaska Native organizations will need ongoing technical assistance to understand and implement necessary changes to their JOBS programs.

Most Tribal (including areas served by Alaska Native organizations) environments are sufficiently different from State environments to warrant the involvement of a certain number of Indian tribes or Alaska Native organizations in demonstration projects. A demonstration project may further allow an Indian tribe or Alaska Native organization to design and implement a program that tests innovative approaches that suits the unique circumstances of that Indian tribe, Alaska Native organization or of Indian country.

Specifications

- (a) Indian tribes and Alaska Native organizations would be eligible to submit applications for demonstration projects related to welfare reform, such as combining JOBS and WORK into a block grant.
- (b) Any contract awarded for the provision of technical assistance following the passage of welfare reform legislation must specify that Indian tribes and Alaska Native organizations receive a fair share of the technical assistance.
- (c) Amend the qualifying entities that can apply for Job Opportunities for Low-Income Individuals (JOLI) demonstration grants (authorized by section 505 of the Family Support Act) to include Tribal governments and Alaska Native organizations.

Provisions for Territories

1. Time Limits In the Territories

Vision

As under current law, Territories will be required to operate a JOBS program. However, Territories will have the option to run a time-limited system or not. Should a Territory choose to implement a time-limited system, operation of a WORK program would be mandatory. The funding for operation of the WORK program would be available in an equivalent manner as for all States. Provisions which would remove At-Risk child care from the section 1108 cap (see IMPROVING GOVERNMENT ASSISTANCE section) will enable Territories to meet their expanded child care needs. Additionally, the Secretary would have flexibility to accommodate special circumstances faced by Territories.

Specifications

- (a) Funding level for JOBS will be at a 75% match rate (as under current law). The JOBS allocation methodology will be the same as under current law.
- (b) Time-limits will be an option. Territories can elect to implement a time-limited system but are not required to. If a Territory chooses to operate a time-limited system, it must specify a phase-in strategy in the plan, subject to Secretarial approval. Territories would also be required to specify a time-frame for implementing a time-limited system state-wide, subject to Secretarial approval.
- (c) Territories would be subject to all participation rates and other performance standards if applicable. However, the Secretary shall have the authority to modify these and other requirements to accommodate special circumstances.

2. WORK Requirements:

- (a) If Territory elects to operate a time-limited system, a WORK program is mandatory. Territories would be required to specify an implementation plan, subject to Secretarial approval.
- (b) WORK funding would be the same as JOBS – 75 percent match for administrative costs from the national capped entitlement. The WORK allotment will be based on the same methodology as for other States: based on number of JOBS participants subject to time-limits and number of WORK registrants. WORK wages funding would come from Sec. 1108 capped monies (i.e., the AFDC benefits these recipients would have gotten anyway under a non-time-limited system).
- (c) The Secretary shall have the authority to allow or require Territories to opt-out of a time-limited and WORK system. Territories can opt-in again after at least 5 years.

WAIVER PROVISIONS [Title II]

Current Law

Section 1115 of the Social Security Act provides the Secretary authority to waive compliance with specified requirements of the Act that are judged likely to promote the objectives of the AFDC, child support, or Medicaid program. Demonstrations under waiver authority must be cost neutral to the federal government and must be rigorously evaluated.

Vision

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency. It is imperative that we send a clear and consistent message about our expectations of the states and of welfare recipients. For that reason, the numbers of waivers granted to states to apply time limits other than 24 months will be limited to 5.

States will be able to conduct demonstrations regarding the WORK program. However, certain aspects of the WORK program will not be waivable so that recipients are afforded some protections against financial loss and loss of Medicaid and to ensure that the program does not result in displacement of other workers.

Specifications

1. Authority for Demonstrations

- (a) Allow the Secretary to authorize no more than five demonstrations with time limits other than 24 months. These time limits can be longer or shorter than 24 months provided that they are consistent with the overall goals of the JOBS and WORK programs.

2. Non-Waivable WORK Provisions:

- (a) Each State shall have a WORK program.
- (b) No person defined as eligible in for the WORK program shall be excluded from the WORK program.
- (c) Participant families in a demonstration program, other than those subject to sanctions, shall not be made worse-off than a family of the same size, with no income, receiving AFDC benefits.
- (d) Participants employed under any demonstration program shall be compensated for such employment at a rate no less than the highest of:
- the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;
 - the rate specified by the appropriate State or local minimum wage law;

- the rate paid to employees or trainees of the same employer working the same length of time and performing the same type of work.

(e) In assigning participants in the demonstration program to any program activity:

- each assignment shall take into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;
- no participant shall be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;
- individuals shall not be discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

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

(g) No work assignment under the program shall result in:

- the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;
- the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or
- any infringement of the promotional opportunities of any currently employed individual.

NO (h)

(h) Funds available to carry out a demonstration program may not be used to assist, promote, or deter union organizing. No participant may be assigned to fill any established unfilled position vacancy.

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

(j) Participants in the program and their families shall be categorically eligible for Medicaid.

MAKE WORK PAY [Title III, Title VII]

Background and Vision

A crucial component of welfare reform that promotes work and independence is making work pay. In 1992, 30 percent of female heads of families with children worked but the family remained poor. Even full-time work can leave a family poor. Almost 11 percent of these female heads who worked full-year/full-time were poor, 15 percent if they had children under six years of age. Simultaneously, the welfare system sets up a devastating array of barriers for people who receive assistance but want to work. It penalizes those who work by taking away benefits dollar for dollar; it imposes arduous reporting requirements for those with earnings but still eligible to receive assistance; and it prevents saving for the future with a meager limit on assets. Moreover, working poor families often lack adequate health protection and face sizeable child care costs. Too often, parents may choose welfare instead of work in order to ensure that their children have health insurance and receive child care. If our goals are to encourage work and independence, to help families who are playing by the rules, and to reduce both poverty and welfare use, then work must pay better than welfare.

Working family tax credits are a major component of making work pay. The expansion of the Earned Income Tax Credit (EITC) passed in 1993 was a significant step toward making it possible for low-wage workers to support themselves and their families above poverty. When fully implemented, it will have the effect of making a \$4.25 per hour job pay nearly \$6.00 per hour for a parent with two or more children. Those families who are eligible for the maximum credit in 1996 obtain, in effect, a raise worth \$1.62 per hour (or \$3,000 per year), assuming full-year/full-time work. Full utilization and periodic distribution will maximize the effect of this pay raise for the working poor.

A critical step toward making work pay is ensuring that all Americans have health insurance coverage. Many recipients are trapped on welfare by their inability to find or keep jobs with health benefits that provide the security they need. And too often, poor, non-working families on welfare have better coverage than poor, working families. The President's health care reform plan will provide universal health care coverage, ensuring that no one will have to choose welfare instead of work to ensure that their children have health insurance. The EITC expansion, access to child care, and health care reform will support workers as they leave welfare to maintain their independence and self-sufficiency.

Another essential component for making work pay is affordable, accessible child care. In order for families, especially single-parent families, to be able to work or prepare themselves for work, they need dependable care for their children. In addition to ensuring child care for participants in the transitional assistance program and for those who transition off welfare, child care subsidies will be made available to low-income working families who have never been on welfare.

All regulatory provisions specified in this section shall be published within 1 year of enactment of this act, unless specified as otherwise.

A. CHILD CARE

Current Law and General Direction of Proposal

The Federal Government currently subsidizes child care for low-income families through a number of different programs. The programs have different eligibility rules and regulations, creating an extremely complicated system that is hard for both providers and recipients to navigate. The major existing programs include an entitlement to child care for AFDC recipients (title IV-A); transitional child care (TCC) (also an entitlement) for up to a year for people who have left welfare for work; a capped entitlement (\$300 million) for those the State determines to be at-risk of AFDC receipt (At-Risk); and the Child Care and Development Block Grant (CCDBG). There is also a disregard for child care costs available to working AFDC recipients. While these multiple programs provide valuable support for child care, legislative changes are needed to strengthen the welfare reform plan.

We are at this time making changes only in the IV-A programs, which will remain as separate authorities. Any changes in the CCDBG will be made during its reauthorization in 1995.

Vision

Child care is critical to the success of welfare reform. It is essential to provide child care support for parents receiving assistance who will be required to participate in education, training, and employment. In addition, child care support for the working poor is also essential to "making work pay" and to enable parents to remain in the workforce. Our goals are to increase child care funding so that families have the access to the child care that they need, to simplify the administration of Federal child care programs to support the development of State child care systems and to reduce the likelihood that parents and children will have to change providers as they move from funding stream to funding stream, and to assure that children are cared for in healthy and safe environments.

Rationale

We are proposing to increase available child care support significantly by extending the child care guarantee to JOBS Prep and WORK program participants and by increasing the funding for child care for working poor families through the At-Risk Child Care Program. To assure access to a variety of forms of child care, we would prohibit States from lowering their State-wide limits and mandate that States supplement the disregard or provide a second, direct payment option to all parents. To improve consistency, we propose to have the IV-A child care programs follow the CCDBG requirements and allow States to place all Federal child care programs in one agency. Finally, to increase supply and improve quality in order to ensure that children are in healthy and safe environments, we propose to create a set-aside in the At-Risk program, to make licensing and monitoring of IV-A child care programs allowable for reimbursement as an administrative cost, to add IV-A requirements that States must assure that children do not have access to toxic substances and weapons and that all children must be immunized to meet the Public Health Service immunization standards.

We have selected the strategy of using the CCDBG standards and adding two new standards because we believe this truly represents the minimal requirements that can assure that children are protected. Many States obviously agree since they are already using the same standards for IV-A child care and

CCDBG child care according to their State plans. In all cases except immunization, States will continue to establish their own standards; in the case of immunization, we do not believe requirements should vary from State to State. Using the CCDBG standards for IV-A child care also strengthens the parental rights and opportunities; we will assure the parental choice of providers, provide parents information on options for care and payment of child care, and establish a system for parental complaints.

Specifications

1. Expansion of Funds to the Working Poor

- (a) Change the State match for the At-Risk Child Care Program, Section 402(i) to that consistent with the new, enhanced match for other IV-A services. Increase the amount authorized for the program to \$300 million in 1995; \$500 million in 1996; \$580 million in 1997; \$755 million in 1998; and \$1 billion in 1999. The program will increase by \$50 million each year thereafter until 2004 when it will increase by \$100 million. Restrict eligibility to families not eligible for other IV-A child care programs. Reallocate unused At-Risk funds to States that have exceeded the required State match.

2. Program Simplification/Consistency Issues

- (a) Continue to have the IV-A child care funds flow to the IV-A agency but give the States the explicit option to contract to the lead CCDBG agency.
- (b) Make the IV-A requirements for coordination, public involvement, and consultation in relationship to development of the IV-A child care plan consistent with the requirements of the CCDBG statute.
- (c) Make the IV-A child care requirements consistent with CCDBG requirements with respect to parental rights and health and safety standards.

Add to the health and safety standards section:

- (i) a requirement that the State must have requirements that children funded under the IV-A child care programs are immunized at levels specified by PHS. States will be given the flexibility to exclude certain children from this requirement.
- (ii) a requirement that the State must have rules to assure that no child has access to toxic and illegal substances or weapons in the child care setting.
- (d) Require that the State establish and periodically revise sliding fee scales that provide cost sharing by the families that receive Federal assistance for child care services. The fee scales will be the same for all programs (that used for CCDBG).
- (e) Establish one requirement for State reporting to cover all programs, with core data elements to be defined by the Secretary.

3. Continuity of care

- (a) Give States the option under the IV-A programs to extend hours and weeks of care when reasonable to assure continuity of care for children.

4. Information to Parents

- (a) Require that States must provide child care information to parents (use CCDBG language, adding "(including options for care and payment).")

5. Supply and Quality Issues

- (a) Create a 10% set aside in the At-Risk program for supply building and quality improvements using language in CCDBG Section 658 (G) as allowable activities and adding as an allowable activity the expansion of the supply of care for infants and toddlers in low-income communities (as defined by the States).
- (b) Establish explicitly that licensing and monitoring of IV-A funded child care providers is an allowable administrative cost, limited by a cap on expenditures of \$15 million a year with State allocations set by a formula established by the Secretary.

6. Payment

- (a) Prohibit States from lowering their statewide limits below those in effect on January 1, 1994.
- (b) Retain the disregard, but mandate that States must offer working AFDC recipients the same level and forms of child care assistance as families in JOBS, TCC, and At-Risk Child Care. To accomplish this, States may either offer families the choice of the disregard or a direct payment for care or they may instead offer them a supplement to the disregard.

7. Clarification of the Guarantee

- Guarantee child care for volunteers whose activities are approved as part of their employability plan under JOBS regardless of the availability of JOBS funding for those activities if the volunteer still undertakes the approved activities.

8. Territories

Allow territories to use WORK funds to pay for child care for WORK participants; continue to allow them to use JOBS funds to pay for child care for JOBS participants. Remove At-Risk Child Care from the territorial cap (See *IMPROVING GOVERNMENT ASSISTANCE* section).

B. IMPROVING THE EITC [Title III]

1. Permitting Publicly Administered Advanced EITC Payment Systems

Current Law

The earned income tax credit (EITC) is a refundable tax credit available to a low-income filer who has earned income and whose adjusted gross income is below specified thresholds. Low income workers can claim the EITC when filing their tax returns at the end of the year. In addition, workers with children have the choice of obtaining a portion of the credit in advance through their employers, and claiming the balance of the credit upon filing their income tax returns. The amount of the advanced payment is calculated on the basis that taxpayers have only one qualifying child. The annual advanced EITC payment cannot exceed 60 percent of the maximum full-year EITC for a family with one child. In 1996, the maximum advance payment would be \$1,223 for a maximum annual EITC of \$2,038 (family with one child) and \$2022 when the maximum is \$3370 (for a family with two or more children.)

An employee choosing to receive a portion of the EITC in advance does so by filing a form W-5 with his or her employer. The employer is not required to verify employee's eligibility for the credit. Employers may be penalized for failing to comply with an employee's request for an advanced payment. The employer calculates the advanced EITC payments to which an employee is entitled based on the employee's wages and filing status and adds the appropriate amount to the employee's paycheck. The employer reduces its payment of employment and income taxes to the IRS by the aggregate amount of advanced EITC payments made during the period and reports this amount to the IRS on form 941.

At the end of the year, the employer notifies both the IRS and the employee of the actual amounts of advanced credits paid to the employee by filling in a box on the form W-2. When filing their income tax return at the end of the year, an employee is required to report advance payments, (if any, of the EITC.

Vision

The proposal would promote use of advance payment option of the Earned Income Tax Credit (AEITC) by allowing selected public agencies to administer an advanced EITC payment for low income workers who voluntarily request it. For example, a States might choose to administer the AEITC through Food Stamp offices. States are not permitted to do this under current statute.

Rationale

Few programs are as effective in reaching the eligible population as the EITC. Despite the successes of the current program, the delivery of the EITC could be improved, particularly by enhancing the probability that the EITC will be claimed in advance throughout the year rather than as a year-end lump sum payment. In recent years, fewer than 1 percent of EITC claimants have received the credit through advance payments in their paychecks. The reasons for the low utilization rate are not fully known, though a recent GAO study found that many low-income taxpayers were unaware they could claim the credit in advance.

There may be other barriers to participation in the advance payment option. The GAO study also found that once informed, many workers stated that they would prefer to receive the EITC in a lump-sum payment. While some workers may simply prefer the forced savings aspect of receiving the credit in a lump sum, others may fear their employer's reaction if they ask for a government wage supplement to be added to their paycheck. Others may be fearful of owing the government a large sum of money at the end of the year because they received too large an amount in advance.

It is believed that welfare recipients, in particular, could benefit from receiving the credit at more regular intervals throughout the year. By receiving the credit as they earn wages, workers would observe the direct link between work effort and the EITC. Public agencies that deal directly with welfare recipients are uniquely advantaged to ensure that the AEITC option is used frequently and appropriately. They could explain to recipients who are about to transition from welfare to work how the AEITC will increase their income stream, making work a more rational option.

Allowing states the option to provide advance payments of the EITC through public agencies (e.g., the offices which also provide food stamp benefits) could dramatically increase use of the AEITC among the working AFDC and ex-AFDC populations. A State could choose to target information about the EITC to welfare recipients or other individuals likely to become welfare recipients but who are currently outside the workforce. Individuals could have the choice of receiving the credit from a neutral third-party, without fear of notifying their employers of their eligibility for the EITC. Moreover, they could receive assistance in determining the appropriate amount of the EITC to claim in advance. States would also have the resources to verify eligibility for the credit better than employers, reducing the risk of erroneous payments being made to ineligible persons. This option would also allow for an evaluation of alternative delivery systems.

Specifications

- (a) A State would have the option to propose to the Secretary of the Treasury a demonstration project pursuant to which advance payments of the EITC would be made to eligible residents through a State agency. Such agencies may include public assistance offices (AFDC and/or Food Stamps), Employment Service Offices, State finance and revenue agencies, and so forth. A state may choose only one agency to provide the advance credit.
- (b) Approval by the Secretary of the Treasury of a State's proposal would be required in all cases. The Secretary of the Treasury would consult with the Secretary of Health and Human Services, the Secretary of Agriculture, and other Departmental Secretaries as appropriate if the State proposal includes coordination of EITC payments and other Federal benefits.
- (c) Where appropriate, States may include in their proposals coordination of advance payments of the EITC and other federal benefits (such as food stamps) through electronic benefit technology.
- (d) State plans would be required to specify how payment of the EITC would be administered. States must include a detailed explanation of how eligibility for the credit would be determined and verified. States would also have to agree to provide recipients and the IRS with annual information reports in a timely fashion (typically by January 31 of the following year) showing the amounts of the EITC paid in advance. In addition, states would agree to

provide the IRS with a listing by December 1st of the names, social security numbers, and the amounts of advance payments received through October of all persons who participated in the state program at any time during the year (through October). States which failed to meet these reporting requirements would not be allowed to continue participation in the program.

- (e) States would be allowed (but not required) to provide on an advanced basis up to 75 percent of the maximum amount of the credit for which the taxpayer is eligible and voluntarily requests.
- (f) States would reduce payments of withholding taxes (for both income and payroll taxes) from their own employees by the amount of the advance payments made during the prior quarter.
- (g) After the processing of income tax returns and matching of returns with information reports, the Secretary of the Treasury would be required to issue an annual report detailing the extent to which EITC claimants under State plans: (1) participated in the state plan; (2) filed a tax return; (3) reported accurately the amount of the advanced payments payable during the year by the state; and (4) repaid any overpayments of the advanced EITC within the prescribed time. The report would also contain an estimate of the amount of the excessive overpayments made by the state. Excessive overpayments would include advance payments not reported on the tax return and advance payments in excess of the EITC calculated on the basis of information reported to the IRS and causing taxpayers to owe outstanding amounts to the IRS.
- (h) States would be required to repay the Federal government 50 percent of excessive advance payments subsequently not recaptured by the IRS made to State residents participating in the plan over a 4 percent threshold. The Secretary of the Treasury would demonstrate that due and diligent effort had been made to recapture these amounts through normal procedures. The 4 percent threshold applies to all advanced payments made by the state for a given tax year. States would become liable for the excessive amounts two years after the due date for the filing of a tax return.
- (i) The Secretary of Treasury and the Secretary of Health and Human Services would jointly ensure that technical assistance is provided to States undertaking demonstration projects aimed at increasing participation in the EITC and the EITC advanced payment programs. Sufficient training and adequate resources would be provided to both agencies pursuant to the provision of technical assistance to the States. The Secretaries of Treasury and HHS will see that such pilots are rigorously evaluated.
- (j) The Secretary of Treasury, in consultation with the Secretary of HHS, shall enter into agreements with up to 4 States to pilot and assess the development and implement publicly administered advanced Earned Income Tax Credit initiatives.
- (k) These agreements shall provide planning and implementation grants to States selected under this provision provided:
 - (i) that the Secretary of the Treasury also reviews and approves of the proposal submitted to the Secretary of DHHS;

- (ii) that the selected States agree to share their findings and lessons with other interested States in a manner to be described by the Secretary.
- (j) The total amount available under this provision for demonstration planning, organizing, and start-up is \$1.4 million and no individual State can receive a grant in excess of \$500,000.
- (m) Unless otherwise extended by the Secretary Treasury, in consultation with the Secretary of HHS, these demonstration programs shall not exceed three years in duration.

C. INCOME DISREGARDS [Title VII]

Current Law

Federal AFDC law requires that all income received by an AFDC recipient or applicant be counted against the AFDC grant except income that is explicitly excluded by definition or deduction. States are required by Federal law to disregard the following income: (1) for the first four months of earnings, working recipients are allowed a \$90 work expense disregard, another \$30 unspecified disregard, and one-third of remaining earnings are also disregarded; (2) the one-third disregard ends after four months; and (3) the unspecified \$30 disregard ends after 12 months.

In addition, a child care expense disregard of \$175 per child per month (\$200 if the child is under 2) is permitted to be calculated after other disregard provisions have been applied. Currently, \$50 in child-support is passed through to families with established awards. States are now required to disregard the EITC in determining eligibility for and benefits under the AFDC program.

Vision

The provisions proposed under this component are designed to: (1) make the treatment of income simpler for both recipients and welfare officials to understand; (2) make work a more attractive, rational option for those who would continue to receive assistance; (3) remove the time sensitivity of current rules (i.e., eliminate provisions which change the rules governing the treatment of income depending on how long the person has worked); and (4) improve the economic well-being of those who need to combine work and welfare. (See IMPROVING GOVERNMENT ASSISTANCE for other earning disregard provisions)

Specifications

- (a) Require States to disregard a minimum of \$120 in earnings, indexed for inflation in rounded increments of \$10.
- (b) States will have the flexibility to establish their own disregard policies on earned income above this amount for both applicants and/or recipients and WORK program participants.
- (c) States shall have flexibility in establishing fill-the-gap policies (i.e., States will have the flexibility to determine which types of income should be considered in developing a fill-the-gap policy, such as child support payments, stipends, etc, in addition to earned income).
- (d) The AFDC \$50 pass-through of child support payments will also be indexed for inflation in rounded \$10 increments. States will have the flexibility to pass-through additional child support payments above this amount.

- (e) The Federally established earnings disregard and the \$50 child support pass-through will be indexed for inflation according to changes in the consumer price index (CPI). The disregards will be rounded to the nearest \$10 increment.

The base period for the provisions to index the disregards shall be the calendar quarter ending September 30, 1996. The computation quarter for determining whether an adjustment is warranted shall be the calendar quarter ending September 30 for each year following 1996. For computation purposes, adjustments will be determined based on the un-rounded disregard amount. For example, if the unrounded adjusted value of the disregard is \$125, then the rounded disregard is \$130. To determine the value of the disregard in the subsequent year, the change in the CPI will be compared to \$126, not \$130. Adjustments to the disregards will become effective the following January 1.

- (f) The effective date of these provisions shall be October 1, 1996.

Rationale

The proposal allows for greater State flexibility; State can determine the appropriate income disregard and can determine which sources of income to disregard. The indexing of the minimum amount will ensure that working recipients are afforded an adequate earned disregard in the future.