

SEC. 672. TREATMENT OF SUPPORT OBLIGATIONS UNDER BANKRUPTCY  
CODE.

(a) No Stay of Proceedings.--11 U.S.C. 362(b)(2) is amended to read as follows:

"(2) under subsection (a) of this section--

"(A) of the commencement or continuation of a judicial or administrative proceeding, or other action under State or territorial law by a governmental unit, against the debtor to establish paternity, to establish or modify an obligation to pay for the support of a spouse, former spouse, or child of the debtor, or to establish a schedule for payment of such support (including any arrearages); or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;"

(b) Streamlined Filing Procedure for Support Creditor.--11 U.S.C. 501 is amended by adding at the end the following new subsection:

"(e)(1) The creditor of a claim that is excepted from discharge under section 523(a)(5) may file such claim by delivering to the clerk of the bankruptcy court in which a petition under this title is pending, in person or by registered mail, the claim form promulgated under paragraph (2). Such a creditor, filing a claim

in such a manner, shall not be required to make a personal appearance before the court, to be represented by counsel admitted to practice in the jurisdiction in which such court is located, to comply with any local rules not specified pursuant to paragraph (2), or to pay any filing fees or other charges in connection with the filing of such claim.

"(2) The Judicial Conference of the United States shall promulgate, not later than June 30, 1995--

"(A) a standardized, simplified form for filing claims described in paragraph (1); and

"(B) procedural guidelines for the use of such form, which rules shall be designed to minimize the burden on support creditors of filing such claims."

(c) Treatment as Preferred Unsecured Creditor.--11 U.S.C. 507(a) is amended--

(1) by striking "(8) Eighth," and inserting "(9) Ninth,"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) Eighth, unsecured claims for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor allowed under section 502 of this title, to the full extent of such claims, and in accordance with any payment schedule established as described in section 362(b)(2)."

(d) Payment Schedule in Chapter 13 Plans.--11 U.S.C. 1322(a)(2) is amended by inserting before the semicolon "(except that the plan shall provide, in the case of a debt not subject to discharge under section 523(a)(5), for payment in accordance with any payment schedule included in the order providing for alimony, maintenance, or support)".

(e) Effective Date.--The amendments made by this section shall become effective October 1, 1995.

SEC. 673. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS Certification Procedure.--(1) Secretarial Responsibility.--Section 452 is amended by adding at the end the following new subsection:

"(k) Certifications for Purposes of Passport Restrictions.--(1) In General.--Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(29) that an individual owes arrearages of child support in excess of \$5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to 22 U.S.C. 219.

"(2) Limit on Liability.--The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section."

(2) State CSE Agency Responsibility.--Section 454, as previously amended by sections 601, 605, 615, and 622, is further amended--

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding after paragraph (28) the following new paragraph:

"(29) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports) determinations that individuals owe child support arrearages of \$5,000 or more, under which procedure--

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require."

(b) State Department Procedure for Denial of Passports.-- Chapter 4 of 22 U.S.C. is amended by adding at the end the following new section:

"§219. Denial of passport for nonpayment of child support.

"(a) In General.--The Secretary, upon certification by the Secretary of Health and Human Services, in accordance with section 452(k) of the Social Security Act, that an individual owes arrearages of child support in excess of \$5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

"(b) Limit on Liability.--The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section."

(b) Effective Date.--The amendments made by this section shall become effective October 1, 1995.

#### PART H - DEMONSTRATIONS

#### SEC. 681. CHILD SUPPORT ENFORCEMENT AND ASSURANCE

##### DEMONSTRATIONS.

(a) Demonstrations Authorized.--(1) Initial Projects.--The Secretary shall make grants to three States for demonstrations under this section to determine the effectiveness of programs to provide assured levels of child support to custodial parents of

children for whom paternity and support obligations have been established.

(b) Duration of Projects.--(1) Total Project Period.--The Secretary shall make grants to States for demonstrations under this section beginning in fiscal year 1997, for periods of from 7 to 10 years.

(2) Phasedown Period.--Each State implementing a demonstration project under this section shall--

(A) phase out activities under such demonstration during the final two years of the project; and

(B) obtain the Secretary's approval, before the beginning of such phasedown period, of a plan for accomplishing such phasedown.

(c) Considerations in Selection of Projects.--(1) Scope.--Projects under this section may, but need not, be Statewide in scope.

(2) State Administration.--(A) Responsible State Agency.--A State demonstration project under this section shall be administered either by the State agency administering the program under title IV-D of the Social Security Act or the State department of revenue and taxation.

(3) Controls.--At least one demonstration project under this section shall include randomly assigned control groups.

(B) Automation.--The State agency described in subparagraph (A) shall operate (or have automated access to) the automated data system required under section 454(16) of the Social Security Act, and shall have adequate automated capacity to carry out the project under this section (including the timely distribution of child support assurance benefits).

(d) Eligibility.--(1) In General.--Child support assurance payments under projects under this section shall be available only to children for whom paternity and support obligations have been established (or with respect to whom a determination has been made that efforts to establish paternity or support would not be in the best interests of the child).

(2) Families with Shared Custody.--In cases where both parents share custody of a child, a parent and child shall not be eligible for benefits under a demonstration under this section unless--

(A) a support order is in effect entitling such parent to support payments in excess of the minimum benefit; or

(B) the agency or tribunal which issued the order certifies that the child support award would be below such minimum benefit if either parent was awarded sole custody and the guidelines under section 467 were applied.

(3) State Option to Base Eligibility on Need.--At State option, eligibility for benefits under a demonstration under this

section may be limited to families with incomes and resources below a standard of need established by the State.

(f) Benefit Amounts.--(1) Range of Benefit Levels.--States shall have flexibility to set annual benefit levels under demonstrations under this section, provided that (subject to the remaining provisions of this subsection) such levels--

(A) are not lower than \$1,500 for a family with one child or \$3,000 for a family with four or more children; and

(B) are not higher than \$3,000 for a family with one child or \$4,500 for a family with four or more children;

(2) Indexing.--Annual benefit levels for each fiscal year after fiscal year 1996 shall be indexed to reflect the change in the Consumer Price Index.

(3) Unmatched Excess Benefits.--The Secretary may permit States to pay benefits higher than the maximum specified in paragraphs (1) and (2), but Federal matching of such payments shall not be available for benefits in excess of the amounts specified in paragraph (1) (as adjusted in accordance with paragraph (2)) by more than \$25 per month.

(g) Treatment of Benefits.--(1) For Purposes of AFDC.--The amount of aid otherwise payable to a family under title IV-A of the Social Security Act shall be reduced by an amount equal to the amount of child support assurance paid to such family (or, at

the Secretary's discretion, by a percentage of such amount paid specified by the Secretary).

(2) For Purposes of Other Benefit Programs.--(A) In General.--Except as provided in subparagraph (B), child support assurance paid to a family shall be considered ordinary income for purposes of determining eligibility for and benefits under any Federal or State program.

(B) Deemed AFDC Eligibility.--At State option, a child (or family) that is ineligible for aid under title IV-A of the Social Security Act because of payments under a demonstration under this section may be deemed to be receiving such aid for purposes of determining eligibility for other Federal and State programs.

(3) For Tax Purposes.--Child support assurance which is paid to a family under this section and is not reimbursed from a child support collection from a noncustodial parent shall be considered ordinary income for purposes of Federal and State tax liability.

(h) Work Program Option.--At the option of the State grantee, a demonstration under this section may include a work program for unemployed noncustodial parents of eligible children.

(i) Availability of Appropriations for Payments to States.--

(1) State Entitlement to IV-D Funding.--A State administering an approved demonstration under this section in a calendar quarter shall be entitled to payments for such quarter, pursuant to section 455 of the Social Security Act for the Federal share of

reasonable and necessary expenditures (including expenditures for benefit payments and for associated administrative costs) under such project, in an amount (subject to paragraphs (2) and (3)) equal to--

(A) with respect to that portion of such expenditures equal to the reduction of expenditures under title IV-A of the Social Security Act pursuant to subsection (g)(1), a percentage equal to the percentage that would have been paid if such expenditures had been made under such title IV-A; and

(B) 90 percent of the remainder of such expenditures.

(2) States with Low AFDC Benefits.--In the case of a State in which benefit levels under title IV-A of the Act are below the national median for such payments, the Secretary may elect to provide 90 percent Federal matching of a portion of expenditures under a project under this section that would otherwise be matched at the rate specified in paragraph (1)(A).

(3) Funding Limits;--Pro Rata Reductions of State Matching.--

(A) Funds Available.--There shall be available to the Secretary, from amounts appropriated to carry out part D of title IV of the Social Security Act, for purposes of carrying out demonstrations under this section, amounts not to exceed--

(i) \$27,000,000 for fiscal year 1997;

(ii) \$55,000,000 for fiscal year 1998;

(iii) \$70,000,000 for each of fiscal years 1999 through 2002; and

(iv) \$55,000,000 for fiscal year 2003.

(B) Pro Rata Reductions.--The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in subparagraph (A).

(j) Distribution of Child Support Collections.--Notwithstanding section 457 of the Social Security Act, support payments collected from the noncustodial parent of a child receiving (or who has received) child support assurance payments under this section shall be distributed as follows:

(1) first, amounts equal to the total support owed for such month shall be paid to the family;

(2) second, from any remainder, amounts owed to the State on account of child support assurance payments to the family shall be paid to the State (with appropriate reimbursement to the Federal Government of its share of such payments);

(3) third, from any remainder, arrearages of support owed to the family shall be paid to the family; and

(4) fourth, from any remainder, amounts owed to the State on account of current or past payments of aid under title IV-A of the Social Security Act shall be paid to the

State (with appropriate reimbursement to the Federal Government of its share of such payments).

(k) Evaluations and Reports.--(1) State Evaluations.--Each State administering a demonstration project under this section shall--

(A) provide for ongoing and retrospective evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(B) submit to the Secretary such reports (at such times, in such format, and containing such information) as the Secretary may require, including at least an interim report not later than 90 days after the end of the fourth year of the project, and a final report not later than one year after the completion of the project, which shall include information on and analysis of the effect of the project with respect to--

(i) the economic circumstances of both noncustodial and custodial parents;

(ii) the rate of compliance by noncustodial parents with support orders;

(iii) work-force participation by both custodial and noncustodial parents;

(iv) need for or amount of aid to families with dependent children under title IV-A of the Social Security Act;

(v) paternity establishment rates; and

(vi) any other matters the Secretary may specify.

(2) Reports to Congress.--The Secretary shall, on the basis of reports received from States administering projects under this section, make the following reports, containing an assessment of the effectiveness of the projects and any recommendations the Secretary considers appropriate:

(A) an interim report, not later than six months following receipt of the interim State reports required by subsection (c); and

(B) a final report, not later than six months following receipt of the final State reports required under subsection (i).

(3) Funding for Costs to Secretary.--There are authorized to be appropriated \$10,000,000 for fiscal year 1997, to remain available until expended for payment of the cost of evaluations by the Secretary of demonstrations under this section.

SEC. 682. SOCIAL SECURITY ACT DEMONSTRATIONS.

Section 1115(c)(3) is amended by striking "increased cost" and all that follows and inserting "an increase in total costs to the Federal Government."

## PART I - ACCESS AND VISITATION GRANTS

## SEC. 691. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

(a) In General.--Part D of title IV is amended by adding at the end the following new section:

## "GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

"Sec. 469A. (a) Purposes; Authorization of Appropriations.-- For the purposes of enabling States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements, there are authorized to be appropriated \$5,000,000 for each of fiscal years 1996 and 1997, and \$10,000,000 for each succeeding fiscal year.

"(b) Payments to States.--(1) Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment under subsection (c) for such fiscal year, to be used for payment of 90 percent of State expenditures for the purposes specified in subsection (a).

(2) Payments under this section shall be used by a State to supplement (and not to substitute for) expenditures by the State,

for activities specified in subsection (a), at a level at least equal to the level of such expenditures for fiscal year 1994.

"(c) Allotments to States.--(1) In General.--For purposes of subsection (b), each State shall be entitled (subject to paragraph (1)) to an amount for each fiscal year bearing the same ratio to the amount authorized to be appropriated pursuant to subsection (a) for such fiscal year as the number of children in the State living with only one biological parent bears to the total number of such children in all States.

"(2) Minimum Allotment.--Allotments to States under subparagraph (A) shall be adjusted as necessary to ensure that no State is allotted less than \$50,000 for fiscal year 1996 or 1997, or \$100,000 for any succeeding fiscal year.

"(d) Federal Administration.--The program under this section shall be administered by the Administration for Children and Families.

"(e) State Program Administration.--(1) Each State may administer the program under this section directly or through grants to or contracts with courts, local public agencies, or non-profit private entities.

"(2) State programs under this section may, but need not, be Statewide.

"(3) States administering programs under this section shall monitor, evaluate, and report on such programs in accordance with requirements established by the Secretary.

PART J - EFFECT OF ENACTMENT

SEC. 695. EFFECTIVE DATES.

(a) In General.--Except as otherwise specifically provided (but subject to subsections (b) and (c))--

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Act, or revision of State plans under section 454 of the Act, shall be effective with respect to periods beginning on and after October 1, 1995; and

(2) all other provisions of this title shall become effective upon enactment.

(b) Grace Period for State Law Changes.--The provisions of this title shall become effective with respect to a State on the later of--

(1) the date specified in this title, or

(2) the effective date of laws enacted by the

legislature of such State implementing such provisions, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of

a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) Grace Period for State Constitutional Amendment.--A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of--

(1) the date one year after the effective date of the necessary State constitutional amendment or

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

SEC. 696. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

TITLE VII - IMPROVING GOVERNMENT ASSISTANCE AND PREVENTING FRAUD

PART A - AFDC AMENDMENTS

SEC. 701. PERMANENT REQUIREMENT FOR UNEMPLOYED PARENT PROGRAM.

(a) In General.--Section 401(h) of the Family Support Act of 1988 (terminating the requirement that States provide benefits to two-parent families based on the unemployment of the principal earner) is repealed.

(b) Applicability to Puerto Rico, American Samoa, Guam, and the Virgin Islands.--Section 401(g)(2) of the Family Support Act of 1988 is amended, effective on the date of enactment of such Act, to read as follows:

"(2) The amendments made by this section (other than those made by subsection (c)) shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands unless the jurisdiction involved notifies the Secretary of Health and Human Services that it chooses to have such amendments apply and submits the necessary plan amendment."

SEC. 702. STATE OPTIONS REGARDING UNEMPLOYED PARENT PROGRAM.

(a) Duration of Unemployment and Recency-of-Work Tests.--

(1) Section 407(b)(1)(A) of the Act (in the matter preceding clause (i)) is amended to read as follows:

"(A) subject to paragraph (2), shall provide for the payment of aid to families with dependent children with respect to a dependent child within the meaning of subsection (a) --".

(2) Such section is further amended--

(A) by striking out "whichever" in clause (i) and inserting in lieu thereof "when, if the State chooses to so require (and specifies in its State plan), whichever",

(B) by inserting "when" before such parent in clause (ii), and

(C) by striking out "(iii)(I)" and inserting in lieu thereof "(iii) when, if the State chooses to so require (and specifies in its State plan) (I)".

(b) State Option to Define "Unemployment".--At its option, a State may provide aid under part A to children of employed parents and may apply, for purposes of section 407 of the Act, a definition of unemployment that includes some or all of the individuals who, solely by reasons of the standards prescribed by the Secretary of Health and Human Services under subsection (a) of such section and in effect on the date of enactment of this Act, would not have been eligible for aid to families with dependent children, and shall include such definition in its State plan approved under part A of title IV of the Act.

(c) Effective Date.-- The amendments made by this section and the provisions of this section shall become effective October 1, 1996.

#### SEC 703. DEFINITION OF ESSENTIAL PERSON.

(1) General Requirement.--Section 402 of the Act is amended by adding immediately after and below subsection (c) the following new subsection:

"(d) In order that the State may include the needs of an individual in determining the needs of the dependent child and

relative with whom the child is living, such individual must be living in the same home as such child and relative and--

"(1) furnishing personal services required because of the relative's physical or mental inability to provide care necessary for herself or himself or for the dependent child (which, for purposes of this subsection only, includes a child receiving supplemental security income benefits under title XVI), or

"(2) furnishing child care services, or care for an incapacitated member of the family, that is necessary to permit the caretaker relative --

"(A) to engage in full or part-time employment outside the home, or

"(B) to attend a course of education designed to lead to a high school diploma (or its equivalent) or a course of training on a full or part-time basis, or to participate in the program under part F on a full or part-time basis."

SEC. 704. EXPANDED STATE OPTION FOR RETROSPECTIVE BUDGETING.

Section 402(a)(13) of the Act is amended --

(1) by striking out in the matter that precedes subparagraph (A) "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),"; and

(2) by striking out in each of subparagraphs (A) and (B) "(but only where the Secretary determines it to be appropriate, in the case of families who are required to report monthly to the State agency pursuant to paragraph (14),".

SEC. 705. DISREGARDS OF INCOME.

(a) Student Earnings.-- (1) In General.-- Section 402(a)(8)(A)(i) of the Act is amended by striking out "dependent child" and all that follows and inserting in lieu thereof "individual under age 19 who is an elementary or secondary school student".

(2) Conforming Amendments.-- Section 402(a) of the Act is amended--

(A)(i) by striking out "a dependent child who is a full-time student" in paragraph (8)(A)(vii) and inserting in lieu thereof "an individual under age 19 who is an elementary or secondary school student", and

(ii) by striking out "such child" in such paragraph and inserting in lieu thereof "such individual", and

(B) by striking out in paragraph (18) "of a dependent child" and inserting in lieu thereof "of an individual under age 19".

(b) Standard Earned Income Disregard Amount.-- (1) Section 402(a)(8)(A)(ii) of the Act is amended by striking out "\$90" and

inserting lieu thereof "\$120, or if greater, \$120 adjusted by the CPI (as prescribed in section 406(i))".

(2) The amendment made by this subsection shall become effective October 1, 1996.

(c) State Option to Disregard Earned Income.-- (1) In General.-- Section 402(a)(8)(A)(iv) of the Act is amended to read as follows:

"(iv) may, at its option, disregard amounts of earned income in addition to those required or permitted to be disregarded under this paragraph, and shall specify in its State plan any such additional amounts and the circumstances (including whether they will be disregarded for applicants as well as for recipients) under which they will be disregarded;"

(2) Conforming Amendments.--

(A) Clause (ii) of section 402(a)(8)(B) of the Act is repealed.

(B)(i) Section 402(a)(37) of the Act is amended by striking out "or because of paragraph (8)(B)(ii)(II)".

(ii) Section 1925(a) of the Act is amended by striking out "or because of section 402(a)(8)(B)(ii)(II)(providing for a time-limited earned income disregard)".

(C) Section 402(g)(1)(A)(ii) of the Act is amended by striking out "increased income" and all that follows down to

the period and inserting lieu thereof "amount of earnings from such employment".

(3) Effective Date.-- The amendments made by this subsection shall become effective October 1, 1996

(d) Disregard of Training Stipends.--Section 402(a)(8)(A)(v) of the Act is amended to read as follows:

"(v) shall disregard from the income of any individual applying for or receiving aid to families with dependent children any amount received as a stipend or allowance under the Job Training Partnership Act or under any other training or similar program;"

(e) Mandatory Child Support Pass-Through.--(1) Section 402(a)(8)(A)(vi) of the Act is amended--

(A) by striking out "\$50" (in two places) and inserting in lieu thereof "\$50, or, if greater, \$50 adjusted by the CPI (as prescribed in section 406(i))";, and

(B) by striking out the semicolon at the end and inserting in lieu thereof "or, in lieu of the amount specified in two places in this clause, such greater amount as the State may choose (and provide for in its State plan);".

(2) CPI Adjustment.--Section 406 of the Act is amended by adding at the end thereof the following new subsection:

"(1) For purposes of this part, an amount is 'adjusted by the CPI' for any month in a calendar year by multiplying the amount involved by the ratio of--

"(1) the Consumer Price Index (as prepared by the Department of Labor) for the third quarter of the preceding calendar year, to

"(2) such Consumer Price Index for the third quarter of calendar year 1996, and rounding the product, if not a multiple of \$10, to the nearer multiple of \$10."

(f) Lump-Sum Income.--(1) In General.--Section 402(a)(8)(A) of the Act is amended--

(1) by striking out "and" after clause (viii), and  
 (2) by adding after and below clause (viii) the following new clause:

"(ix) shall disregard from the income of any family member any amounts of income received in the form of nonrecurring lump-sum payments;"

(2) Repeal.--Section 402(a)(17) of the Act is repealed.

(g) Educational Assistance.-- Section 402(a)(8)(A) of the Act is further amended by adding after and below clause (ix) the following new clause:

"(x) shall disregard all educational assistance provided to a family member;"

(h) In-Kind Income.--Such section is further amended by adding after and below clause (x) the following new clause:

"(xi) shall disregard all in-kind income provided to a family member;"

(i) Benefits Under the National and Community Service Act.-- Such section is further amended by adding after and below clause (xi) the following new clause:

"(xii) shall disregard any living allowance, child care allowance, stipend, or educational award paid under section 140 of the National and Community Service Act of 1990 to a family member participating in a national service program carried out with assistance from the Corporation for National and Community Service;"

(j) "Fill-the-Gap" Disregards.-- (1) Such section is further amended by adding after and below clauses (xii) the following new clause:

"(xiii) may disregard, in addition to any other amounts required or permitted by this paragraph, income described in the State plan by type or source and by amount, but no amount in excess of the difference between the State's standard of need applicable to the family involved and the State's payment amount for a family of the same size with no other income;"

(2) The amendment made by this subsection shall become effective October 1, 1996.

SEC. 706. STEPPARENT INCOME.

(a) Section 402(a)(31) of the Act is amended by striking out "\$90" and inserting in lieu thereof "\$120" and by striking out the semicolon at the end and inserting in lieu thereof ", or, at the option of the State, so much of such income as exceeds any greater amount or amounts as the State agency finds appropriate to strengthen family life and provide incentives to increase earnings;".

(b) The amendment made by this section shall become effective October 1, 1996.

SEC. 707. INCREASE IN RESOURCE LIMIT.

Section 402(a)(7)(B) of the Act is amended (in the matter preceding clause (i)) by striking out "\$1000 or such lower amount as the State may determine "and inserting in lieu thereof "\$2000 or, in the case of a family with a member who is 60 years of age or older, \$3000".

SEC. 708. EXCLUSIONS FROM RESOURCES.

(a) Life Insurance.-- Section 402(a)(7)(B)(ii) of the Act is amended by striking out the semicolon at the end and inserting in lieu thereof ", and the cash value of life insurance policies;".

(b) Real Property which Must be Disposed of.--Section 402(a)(7)(B)(iii) of the Act is amended to read as follows: "real property which the family is making a good faith effort to dispose of at a reasonable price;".

(c) Exclusion of Payments of the EITC.-- Section 402(a)(7)(B) of the Act is amended--

(1) by striking out "or" after clause (iii), and

(2) by amending clause (iv) (pertaining to payments by reason of the Earned Income Tax Credit) by striking out "the following month" and inserting in lieu thereof "the following eleven-month period", and by striking out the semicolon at the end and inserting in lieu thereof "and any lump-sum payment of State earned income tax credits and any payments described in this clause shall be deemed to be expended prior to other resources that are not excluded;".

(d) Lump-Sum Payments for Medical Expenses or Replacement of Lost Resources.-- Section 402(a)(7)(B) of the Act is amended--

(1) by striking out "and" after clause (iv), and

(2) by adding after clause (iv) the following new clause: "(v) for the month of receipt and the following eleven-month period, amounts that have been paid as reimbursement (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family;".

(e) Individual Development Accounts.-- Section 402(a)(7)(B) of the Act is amended by adding after clause (v) the following new clause: "(vi) amounts, not to exceed \$10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (I) section 529 of the Internal Revenue Code of 1986 by any member of a family receiving aid to families with dependent children, or (II) under a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which such aid was paid, or food stamps provided, with respect to such individual or in any month after such a month;".

(f) Resources for Self-Employment.-- Section 402(a)(7)(B) of the Act is amended by adding after clause (vi) the following new clause: "(vii) liquid and nonliquid resources that are or will be used for the self-employment of a family member, to the extent and under the circumstances allowed by the State agency in accordance with regulations issued by the Secretary after consultation with the Secretary of Agriculture;".

SEC. 710. TRANSFER OF RESOURCES.--

Section 402(a)(7) of the Act is amended--

- (1) by adding "and" after subparagraph (C), and
- (2) by adding after and below subparagraph (C) the following new subparagraph:

"(D) shall determine ineligible for aid any family member who knowingly transfers resources for the purpose of qualifying or attempting to qualify for such aid for such period, not in excess of one year from the date of discovery of the transfer, determined in accordance with regulations of the Secretary;".

SEC. 711. LIMITATION ON UNDERPAYMENTS.

Section 402(a)(22)(C) of the Act is amended by striking out "an underpayment" and inserting in lieu thereof "an underpayment, the corrective payment shall be made regardless of whether the family is, at the time payment is made, receiving current payment of aid under the State plan but such payment shall not exceed the amount necessary to correct for the underpayment of aid during the twelve-month period immediately preceding the month in which the State agency first learned of the underpayment, and".

SEC. 712. COLLECTION OF AFDC OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

(a) Authority to Intercept Tax Refund.-- (1) Part A of title IV of the Act is amended by adding at the end thereof the following new section:

"COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS

"Sec. 418.(a). Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under

this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide--

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals (A) who are no longer receiving aid under the State plan approved under this part, (B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved as required under section 402(a)(22)(B), and (C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from their income tax refunds;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a

joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support."

(2) Section 6402 of the Internal Revenue Code of 1986 (as previously amended by section 662 of this Act) is further amended--

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following new subsection:

"(g) Collection of overpayments under title IV-A of Social Security Act. The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 418 of the Social Security Act (concerning recovery of

overpayments to individuals under State plans approved under part A of title IV of such Act).".

(b) Conforming Amendment.-- Section 552a(a)(8)(B)(iv)(III) of title 5 of the United States Code is amended by striking out "section 464 or 1137 of the Social Security Act" and inserting in lieu thereof "section 419, 464, or 1137 of the Social Security Act."

SEC. 713. VERIFICATION OF STATUS OF CITIZENS AND ALIENS.

(a) In General.--Section 1137(d) of the Act is amended by adding at the end thereof the following:

"(6) A State shall be deemed to meet the requirements of paragraph (1) with respect to the eligibility of each member of a family applying for aid under the State plan approved under part A of title IV, if the State requires, as a condition for such eligibility, a declaration in writing by an adult member of the family, under penalty of perjury, that each family member is a citizen of the United States or an alien eligible for aid under such State plan (and, with respect to a child born into a family receiving such aid, such declaration must be made no later than the time of the next redetermination of such family's eligibility following the birth of such child).".

(b) Effective Date.--The amendment made by subsection (a) shall become effective upon enactment.

SEC. 714. REPEAL OF REQUIREMENT TO MAKE CERTAIN SUPPLEMENTAL PAYMENTS IN STATES PAYING LESS THAN THEIR NEEDS STANDARDS.

Section 402(a)(28) of the Act is repealed.

SEC. 715. CALCULATION OF 185 PERCENT OF NEED STANDARD.

Section 402(a)(18) of the Act is amended by striking out "without application of paragraph (8)(A)(viii)," and inserting in lieu thereof "applying only the disregard provisions of paragraph (8)(A) that appear in clauses (v)(income from a program under the Job Training Partnership Act and similar programs), (viii)(payments related to the Earned Income Tax Credit), (ix)(certain lump-sum payments), (x)(educational assistance), (xi) (in-kind income), and (xii)(certain payments under the National and Community Service Act of 1990),".

SEC. 716. TERRITORIES.

(a) Section 1108(a) of the Act is amended by amending paragraphs (1), (2), and (3) to read as follows:

"(1) for payment to Puerto Rico shall not exceed--

"(A) \$82,000,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) \$102,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter;

"(2) for payment to the Virgin Islands shall not exceed--

"(A) \$2,800,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) \$3,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter; and

"(3) for payment to Guam shall not exceed--

"(A) \$3,800,000 with respect to fiscal year 1994, 1995, and 1996, and

"(B) \$4,750,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)), for fiscal year 1997 and each fiscal year thereafter."

(b) CPI Adjustment.--Section 1108 of the Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of subsection (a), an amount is 'adjusted by the CPI' for months in calendar year by multiplying that amount by the ratio of the Consumer Price Index as prepared by the Department of Labor for--

"(1) the third quarter of the preceding calendar year, to

"(2) the third quarter of calendar year 1996,

and rounding the product, if not a multiple of \$10,000, to the nearer multiple of \$10,000."

PART B -- FOOD STAMP ACT AMENDMENTS

SEC. 721. INCONSEQUENTIAL INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended to read as follows--

"(2) any inconsequential payments, as defined by the Secretary, received during the certification period, but not to exceed a total of such payments of \$30 per household member in any quarter, whether the household's income is calculated on a prospective or retrospective basis,".

SEC. 722. EDUCATIONAL ASSISTANCE.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by--

(1) striking clause (3) of subsection (d) and inserting in lieu thereof the following--

"(3) all educational assistance provided to a household member,";

(2) in the proviso of clause (5) of subsection (d), striking "and no portion of any educational loan" and all that follows through "provided for living expenses,"; and

(3) striking clause (3) of subsection (k).

SEC. 723. EARNINGS OF STUDENTS.

Effective on and after September 1, 1994, section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by--

(1) striking "a child who is a member of the household, who is"; and

(2) striking ", and who is 21" and inserting in lieu thereof "who is 18".

SEC. 724. TRAINING STIPENDS AND ALLOWANCES;

INCOME FROM ON-THE-JOB TRAINING PROGRAMS.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by--

(1) striking "and (16)" in subsection (d) and inserting in lieu thereof "(16)";

(2) inserting before the period at the end of subsection (d) ", and (17) any amount received by any member of a household as a stipend or allowance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under any other training or similar program"; and

(3) striking in subsection (1) the language beginning with "under section 204(b)(1)(C)" and all that follows through "19 years of age." and inserting in lieu thereof "shall be considered earned income for purposes of the food stamp program.".

## SEC. 725. EARNED INCOME TAX CREDITS.

Effective on and after September 1, 1994, the second sentence of section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by--

- (1) inserting "Federal or State lump-sum" immediately preceding "earned income tax credits"; and
- (2) striking the language beginning with "if such member was participating" and all that follows through "the 12-month period".

## SEC. 726. RESOURCES NECESSARY FOR SELF EMPLOYMENT.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by adding the following new third and fourth sentences--

"The Secretary shall also exclude from financial resources loans obtained for the purposes of starting or operating a business. The Secretary may exclude from financial resources liquid or nonliquid resources that are or will be used for the self employment of any member of a household to the extent and under the circumstances allowed in regulations issued by the Secretary after consultation with and the Secretary of Health and Human Services."

SEC. 727. LUMP-SUM PAYMENTS FOR MEDICAL EXPENSES OR REPLACEMENT  
OF LOST RESOURCES.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) as amended by this Act is further amended by adding the following new fifth sentence--

"The Secretary shall also exclude from financial resources, for a period of one year from their receipt, amounts that have been paid as reimbursements (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family."

SEC. 728. INDIVIDUAL DEVELOPMENT ACCOUNTS.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) as amended by this Act is further amended by adding the following new sixth and seventh sentences--

"The Secretary shall also exclude from financial resources amounts, not to exceed \$10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (A) section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) by any member of a household applying for or receiving assistance under this Act or (B) a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which

assistance was provided under this Act or aid to families with dependent children was provided pursuant to part A of the title IV of the Social Security Act, with respect to such individual, or in any month after such a month. The Secretary shall also exclude from financial resources, for the month of its receipt and the following month, a nonrecurring lump-sum payment received by any household member if the household member represents that the payment will be deposited in an Individual Development Account established as described in the preceding sentence."

SEC. 729. CONFORMING AMENDMENT.

Section 5(d)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(8)) is amended in the proviso by inserting "paragraph (3) of subsection (g) of this section or" immediately preceding "other laws".

PART C -- ECONOMIC INDEPENDENCE

SEC. 731. SHORT TITLE.

This title may be cited as the "Individual Development Account Demonstration Act of 1994".

SEC. 732. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) Declaration of Policy.--It is the policy of the United States--

(1) to eliminate barriers that prevent recipients of Aid to Families with Dependent Children (AFDC) from becoming

self-sufficient through self-employment and asset accumulation;

(2) to identify and implement cost-effective strategies to encourage saving and entrepreneurship among the broadest possible range of low-income families, particularly families eligible for AFDC, and that have the potential to reduce Federal spending on transfers and services to the disadvantaged;

(3) to enhance private-sector opportunities for low-income families by enabling them to use their own human and financial resources through expansion of business investment, job creation, home ownership, and human capital investment; and

(4) to expand the capacity of local organizations to provide asset-related services that help people to help themselves such as savings mechanisms, loan funds, technical assistance, and entrepreneurial training.

(b) Statement of Purpose.--The purpose of the demonstration projects authorized under this title is to provide for a means of determining--

(1) the social, psychological, and economic effects of providing low-income individuals the opportunity to accumulate assets and develop and utilize entrepreneurial skills; and

(2) the extent to which an asset-based assistance policy may be used to enable individuals with low-income to achieve economic self-sufficiency.

SEC. 733. INDIVIDUAL DEVELOPMENT ACCOUNT DEMONSTRATION PROJECTS.

(a) In General.--Not later than one year after the date of enactment of this Act, any State or local government, or any qualified organization may apply to the Administrator/Chairperson of the Community Development Bank and Financial Institutions Fund (hereinafter the Administrator/Chairperson) for a grant to conduct individual development account demonstration projects for eligible persons.

(b) Contents.--Each application shall--

(1) describe the demonstration project;

(2) describe the persons who will participate in the project;

(3) demonstrate the ability of the applicant--

(A) to assist project participants in achieving economic self-sufficiency through the project; and

(B) to assist project participants in developing greater knowledge about savings, investments, and other financial matters;

(C) to oversee the use of grant funds, including the documentation and verification of start-up expenses in the case of entrepreneurial assistance; and

(D) to effectively administer the project;

(4) in the case of a qualified organization, document a commitment by the State in which the project is to be conducted to provide a specified amount of funds to the qualified organization for the project, and any similar commitment made to the qualified organization by any other non-Federal public entity or by any private entity;

(5) contain a plan for maintaining data and other information concerning assistance provided to project participants sufficient to evaluate the project and a certification that the applicant will fully cooperate and provide access to all information concerning the project in connection with any evaluation of the project conducted pursuant to subsection (1); and

(6) contain such other information as the Administrator/Chair may prescribe.

(c) Criteria.--In considering whether to approve an application, the Administrator/Chairperson shall assess the following:

(1) The degree to which the project described in the application is likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Administrator/Chairperson shall consider the overall quality of

project activities and shall not consider any particular kind or combination of such qualified expenses to be an essential feature of any project.

(2) The ability of the applicant to responsibly administer the project.

(3) The amount of funds from non-Federal sources that are committed to the project.

(4) The adequacy of the plan for maintaining information necessary to evaluate the project.

(d) Approval.--

(1) The Administrator/Chairperson shall, on a competitive basis, approve such applications to conduct demonstration projects under this section as the Administrator/Chairperson deems appropriate on the basis of the criteria described in subsection (c).

(2) No court shall have jurisdiction to review the approval or nonapproval of any application by the Administrator/Chairperson.

(e) Demonstration Authority; Annual Grants.--

(1) Demonstration Authority.--The approval by the Administrator of an application shall authorize the applicant (hereinafter the grantee) to conduct the project for five project years in accordance with the approved application and the requirements of this section.

(2) Annual Grants.--The Administrator/Chairperson shall make a grant to each grantee on the first day of each project year.

(f) Reserve Fund.--

(1) Establishment.--Each grantee shall establish a reserve fund that shall be used in accordance with this subsection.

(2) Deposits.--

(A) As soon after receipt as is practicable, a grantee shall deposit into the reserve fund--

(i) all annual grants made by the Administrator/Chairperson;

(ii) all funds provided to the grantee by any non-Federal public or private entity to conduct the demonstration project;

(iii) all proceeds from any investments made pursuant to paragraph (4); and

(iv) all amounts title to which vests in the grantee pursuant to subsection (h)(5).

(3) Expenditures.--A grantee shall use amounts in the reserve fund only--

(A) to assist project participants in obtaining the skills and information necessary to achieve eco-

conomic self-sufficiency through activities requiring the payment of qualified expenses;

(B) to provide financial assistance in accordance with subsection (h) to project participants;

(C) to administer the project; and

(D) to maintain and provide information necessary for the evaluation of the project pursuant to subsection (l).

(4) Accounting Standards.--The Administrator/Chairperson shall prescribe regulations governing the accounting of amounts deposited in and withdrawn from reserve funds.

(5) Termination of Project.--Notwithstanding paragraph (3), upon the termination of any demonstration project approved under this section, remaining amounts in the reserve fund established with respect to such project and remaining investments made from amounts in the reserve fund shall be distributed to the Administrator/Chairperson and each non-Federal public or private entity that contributed to the project in proportion to their contributions.

(g) Selection of Eligible Persons to Receive Assistance.-- A grantee shall provide individual development account assistance to eligible persons whom the grantee deems to be best situated to benefit from such assistance, taking into account the amount of

grants made by the Administrator/Chairperson and other funds available to the grantee for such assistance.

(h) Financial Assistance for Individual Development Accounts.--

(1) In General.-- A grantee shall provide initial financial assistance to a project participant who establishes an individual development account, not to exceed \$500 per participant. Such financial assistance shall be deposited in the individual development account established by a project participant.

(2) Matching Contributions.--The Administrator/Chairperson or a grantee may make matching contributions of not less than 50 cents and not more than \$4 for every \$1 dollar deposited into an individual development account by a project participant, not to exceed \$2,500 for any project participant.

(3) Limitation on Use.--

(A) Financial assistance provided pursuant to paragraph (1) shall not be available for use by a project participant until--

(i) the individual development account is closed; and

(ii) a project participant has deposited into the individual development account an amount

equal to the initial financial assistance provided pursuant to paragraph (1).

(B) Financial assistance provided pursuant to paragraph (1) or (2) shall be used by a project participant only for the payment of qualified expenses.

(4) Applicability of Other Law.--The provisions of section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529) and such rules, regulations and procedures as may be prescribed by the Secretary of the Treasury under such Code shall apply to an individual development account for which financial assistance is provided pursuant to this subsection.

(5) Effect of Prohibited Transactions.--In the event that an individual development account ceases to be an individual development account under the provisions of section 529(e)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(2)), or any portion of an individual development account is treated as distributed under the provisions of section 529(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(3)), title to all amounts in such an account, or such portion of an account, attributable to financial assistance provided pursuant to paragraph (1) or (2) shall vest in the grantee providing financial assistance

pursuant to paragraph (1) and such amounts shall be paid to such grantee.

(i) Local Control Over Demonstration.--

(1) Each grantee shall, subject to the provisions of subsection (k), have sole responsibility for the administration of demonstration projects approved by the Administrator/Chairperson.

(2) The Administrator/Chairperson may prescribe such regulations as may be necessary to ensure that grantees comply with the terms of approved applications and the requirements of this section.

(j) Annual Reports.--

(1) In General.-- Each grantee shall annually report to the Administrator/Chairperson concerning the progress of each approved demonstration project administered by such grantee. The report shall, at a minimum--

(A) describe project participants;

(B) contain an audited financial statement for the reserve fund established with respect to the project;

(C) provide information on amounts deposited in individual development accounts of project participants to whom such assistance is provided under the project; and

(D) such other information as the Administrator/Chairperson may require with respect to the evaluation of the project pursuant to subsection (1).

(2) Submission.--Reports required by paragraph (1) shall be submitted annually not later than the anniversary of the date the Administrator/Chairperson approved the application for the demonstration project.

(3) Coordination with State Government.--A grantee shall transmit a copy of each report required by paragraph (1) to the Treasurer (or equivalent official) of the State in which the project is conducted at the time prescribed by paragraph (2).

(k) Sanctions.--

(1) Revocation of Demonstration Authority.-- If the Administrator/Chairperson determines a grantee is not conducting a demonstration project in accordance with the approved application and the requirements of this section, and has failed to undertake corrective action satisfactory to the Administrator/Chairperson, the Administrator/Chairperson may revoke the approval to conduct the project. A determination by the Administrator/Chairperson to revoke the approval for a demonstration project shall not be subject to review by any court.

(2) Actions Required Upon Revocation.--

(A) If the Administrator/Chairperson revokes approval to conduct a demonstration project pursuant to paragraph (1), the Administrator/Chairperson—

(i) shall suspend the project;

(ii) shall take control of the reserve fund established pursuant to subsection (f) with respect to such project; and

(iii) shall solicit applications from entities described in subsection (a) to conduct the suspended project in accordance with the approved application (or under such terms and conditions as the Administrator may prescribe) and the requirements of this section.

(B) If the Administrator/Chairperson approves an application to conduct the suspended project, the Administrator/Chairperson shall transfer to the new grantee control of the reserve fund established pursuant to subsection (f) for the project, and such grantee shall be considered to be the original grantee for purposes of this section. The date the Administrator/Chairperson approved the application of the new grantee to conduct the suspended project shall apply for purposes of the annual reports required by subsection (j).

(C) If the Administrator/Chairperson has not approved an application to conduct a project by the date that is one year after approval to conduct the project was revoked, the Administrator/Chairperson shall--

(i) terminate the project; and

(ii) distribute remaining amounts in the reserve fund for such project and investments made from amounts in the reserve fund in accordance with the provisions of subsection (f)(6).

(1) Project Evaluations.--

(1) In General.-- Not later than six months after the date of enactment of this Act, the Administrator/Chairperson, in consultation with the Secretary of the Treasury and the Secretary of the Department of Health and Human Services, shall enter into a contract with an independent organization (hereinafter "evaluator") for the evaluation of individual demonstration projects conducted pursuant to this section and the effectiveness of assistance provided to eligible persons pursuant to this section.

(2) Evaluations.-- In entering into the contract provided for in paragraph (1), the Administrator/Chairperson should consider providing for evaluation of--

(A) the types of information and public education efforts that attract project participants;

(B) the accessibility of the demonstration project by participants and the ease of participation;

(C) the level of financial assistance required to stimulate participation in the demonstration project, and whether such level varies among different demographic populations;

(D) whether project features utilized in conjunction with individual development accounts (such as peer support, structured planning exercises, mentoring, and case management) contribute to participation in the project;

(E) the level of self-sufficiency achieved by project participants as measured by employment or self-employment rates, earned and investment income, exit rates, poverty rates, and recidivism rates, particularly for program participants eligible for food stamp benefits and AFDC;

(F) the reduction in the level of public expenditure on project participants as measured by changes in overall support payments including AFDC, food stamp benefits, Federal child care assistance, Federal housing assistance, JOBS, and other benefits, taking into

account costs incurred by the Federal Government in support of demonstration projects;

(G) the level of asset accumulation by project participants as measured by savings rates, net worth, business start-ups, human capital investments, new homes, number of loans to low-income and AFDC eligible families, and whether asset accumulation continued after a subsidy or other assistance;

(H) the economic, psychological, and social effects of asset accumulation; and

(I) the circumstances concerning and the extent to which asset accumulation by project participants contributes to--

(i) a greater sense of security and control and positive outlook;

(ii) greater household stability;

(iii) increased long-term planning;

(iv) increased efforts to maintain and develop assets;

(v) greater knowledge about savings, investments, and other financial matters;

(vi) increased effort and success in educational achievement within the household;

- (vii) increased specialization in career development;
- (viii) improved social status;
- (ix) increased political participation;
- (x) increased community involvement;
- (xi) increased earned income;
- (xii) decreased reliance on traditional forms of public assistance, with particular emphasis on food stamp benefits and AFDC; and
- (xiii) increased tendency to save during and after the period of project participation.

(3) Methodological Requirement.-- In evaluating any demonstration project conducted under this section, the evaluator should obtain such quantitative data before, during, and after the project, as is necessary to evaluate the project and include randomly assigned control groups.

(m) Definitions.-- As used in this section:

(1) Household.-- The term "household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separately from other individuals in the living quarters.

(2) Net Worth.--

(A) In General.-- Except as provided in subparagraph (B), the term "net worth" means, with respect to

a household, the aggregate fair market value of all assets that are owned in whole or in part by any member of the household, less the obligations or debts of any member of the household.

(B) Assets Excluded.-- Net worth shall be determined without taking into account the fair market value and the obligations or debts of--

(i) the primary dwelling unit of the household;

(ii) the motor vehicle having the greatest equity value; and

(iii) items essential for daily living, such as clothes, furniture, and similar items of limited value.

(3) Individual Development Account.-- The term "individual development account" shall have the same meaning given such term in section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529).

(4) Project Year.-- The term "project year" means with respect to a demonstration project, any of the six consecutive 12-month periods beginning on the date the project is approved by the Administrator.

(5) Qualified Organization.-- The term "qualified organization" means a community development financial

institution as defined in section \_\_\_ of the Community Development Banking and Financial Institutions Act of 1994.

(6) Eligible Person Defined.-- The term "eligible person" means any person who is a member of a household that meets all of the following requirements:

(A) EITC Test.-- The household has at least one individual who is an eligible individual within the meaning of section 32(c)(1) of the Internal Revenue Code of 1986 for purposes of the earned income tax credit.

(B) Income Test.-- The household did not have adjusted gross income (as determined pursuant to the Internal Revenue Code of 1986) in the immediately preceding calendar year in excess of \$18,000.

(C) Net Worth Test.-- The net worth of the household, as of the close of the immediately preceding calendar year, did not exceed \$20,000.

(7) Qualified Expenses.-- The term "qualified expenses" shall have the same meaning as provided in section 529(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 529(c)(1)).

(n) Authorization of Appropriations.-- To carry out the purposes of this section there are authorized to be appropriated to the Administrator/Chairperson--

- (1) \$10,000,000 for fiscal year 1997,
- (2) \$20,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and
- (3) \$10,000,000 for fiscal year 2002.

SEC. 734. INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) In General.-- Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by adding at the end of the following new part:

"PART VIII—INDIVIDUAL DEVELOPMENT ACCOUNTS

"SEC. 529. INDIVIDUAL DEVELOPMENT ACCOUNTS.

\*(a) Establishment of Accounts.--

\*(1) In General.-- An individual development account may be established by or on behalf of an eligible individual for the purpose of accumulating funds to pay the qualified expenses of such individual.

\*(2) Eligible Individual.-- The term 'eligible individual' means an individual—

\*(A) for whom assistance is provided under section 733(h) of the Individual Development Account Demonstration Act;

\*(B) receiving assistance under 42 U.S.C. 601 et seq.; or

"(C) receiving assistance under 7 U.S.C. 2011 et seq.

"(b) Limitations.--

"(1) Account to Benefit One Individual.-- An individual development account may not be established for the benefit of more than one individual.

"(2) Multiple Accounts.-- If, at any time during a calendar year, two or more individual development accounts are maintained for the benefit of an eligible individual, such individual shall be treated as an eligible individual for such year only with respect to the account first established.

"(3) Who May Contribute.-- Contributions to an individual development account, other than contributions made pursuant to section 733(h) of the Individual Development Account Demonstration Act, may be made only by an eligible individual and in the case of an eligible individual described in subsection (e)(2)(A), by another eligible individual who is a member of the same household as the eligible individual.

"(4) Annual Limit.-- Contributions to an individual development account by or on behalf of an eligible individual for any taxable year shall not exceed the lesser of \$1,000 or 100% of the earned income, within the meaning

of section 32(c)(2), of the eligible individual making such contribution. No contribution to the account under section 733(h) of the Individual Development Account Demonstration Act shall be taken into account for the purposes of this limitation. No contribution may be made to an individual development account by or on behalf of any individual after such individual has ceased to be an eligible individual.

"(5) Limit on Total Contributions.-- Total contributions to an individual development account for all years may not exceed \$10,000.

"(c) Definitions and Special Rules.-- For the purposes of this section--

"(1) Qualified Expenses.-- In the case of an eligible individual described in subsection (a)(2)(A), the term 'qualified expenses' means one or more of the expenses described in subparagraphs (A), (B), (C), and (D), as provided by the entity providing assistance to the eligible individual under section 733(h) of the Individual Development Account Demonstration Act. In the case of any other eligible individual, the term 'qualified expenses' means one or more of the expenses described in subparagraph (A), (B), (C), or (D).

"(A) Post-Secondary Education Expenses.-- Post-secondary educational expenses paid from an individual

development account directly to an eligible educational institution. For the purposes of this subparagraph--

"(i) the term 'post-secondary educational expenses' means--

"(I) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution;

"(II) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution; and

"(III) a reasonable allowance for meals, lodging, transportation, and child care, while attending an eligible educational institution; and

"(ii) the term 'eligible educational institution' means--

"(I) an institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this section; and

"(II) an area vocational education school (as defined in subparagraph (C) or (D)

of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2471 (4)) in any State (as defined in section 521(33) of such Act), as such section is in effect on the date of the enactment of this section.

"(B) First-Home Purchase.-- Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. For purposes of this subparagraph--

"(i) the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence, and includes any usual or reasonable settlement, financing, or other closing costs;

"(ii) the term 'qualified principal residence' means a principal residence (within the meaning of section 1034), the qualified acquisition costs of which do not exceed 80 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e));

"(iii) the term 'qualified first-time home-buyer' means a taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principal residence during the three-year period ending on the date on which a binding contract was entered into to acquire, construct, or reconstruct the principal residence to which this subparagraph applies.

"(C) Business Capitalization.-- Amounts paid from an individual development account directly into a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. For purposes of this subparagraph--

"(i) the term 'qualified business capitalization expenses' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan;

"(ii) the term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses;

"(iii) the term 'qualified business' means any business that does not contravene any law or public policy (as determined by the Administrator of the Community Development Bank and Financial Institutions Fund);

"(iv) the term 'qualified plan' means a business plan

"(I) that is approved by a financial institution, or any other institution designated as a community development financial institution, having demonstrated fiduciary integrity;

"(II) that includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

"(III) that may require the eligible individual to obtain assistance of an experienced entrepreneurial advisor.

"(D) Transfers to IDAs of Family Members.-- Amounts in an individual development account may be paid or transferred directly into another such account established for the benefit of an eligible individual who is--

"(i) the taxpayer's spouse; or

"(ii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(2) Individual Development Account.-- The term 'individual development account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an individual who was an eligible individual at the time when contributions were made to such trust, but only if the written instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash or check.

"(B) The trustee is a financial institution insured by an instrumentality of the Federal Government.

"(C) The assets of the account will be invested only in federally insured deposits and/or stock of a regulated investment company within the meaning of section 851(a), in accordance with the direction of the eligible individual.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) Except as provided in subparagraph (F), any amount in the account which is attributable to assis-

tance provided under section 733(h) of the Individual Development Account Demonstration Act may be paid or distributed out of the account only for the purpose of paying the qualified expenses of the eligible individual.

"(F)(i) Any balance in the account on the day after the date on which the individual for whose benefit the trust is established dies will be transferred within 60 days of such date as directed by such individual to another individual development account established for the benefit of an individual who is a family member described in subsection (c)(1)(D) and who is an eligible individual, or who was an eligible individual on the day immediately preceding the date on which the individual for whose benefit the trust is established dies.

"(ii) In any case where clause (i) does not apply, the portion of the account attributable to contributions other than those provided under section 733(h) of the Individual Development Account Demonstration Act shall be paid out within five years of the date of death to the beneficiaries of the individual for whose benefit the account was established, and the balance shall vest in the grantee

providing assistance under section 733(h) of the Individual Development Account Demonstration Act and shall be paid to such grantee within 60 days of the day after the date of death.

"(3) Time When Contributions Deemed Made.-- A taxpayer shall be deemed to have made a contribution to an individual development account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) Tax Treatment of Distributions.--

"(1) In General.-- Except as otherwise provided in this subsection, any amount paid or distributed out of an individual development account shall be included in gross income of the payee or distributee for the taxable year in the manner provided in section 72.

"(2) Treatment of Assistance Contributions.--

"(A) Distributions Used to Pay Qualified Expenses.-- If a distribution or payment from an individual development account is used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such

individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as contributions made by the individual.

"(B) Distributions Not Used to Pay Qualified Expenses.-- If a distribution or payment from an individual development account is not used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as earnings on the account.

"(e) Tax Treatment of Accounts.--

"(1) Exemption From Tax.-- An individual development account is exempt from taxation under this subtitle unless such account has ceased to be an individual development account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Loss of Exemption of Account Where Individual Engages in Prohibited Transaction.--

"(A) In General.-- If the individual for whose benefit an individual development account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be an individual development account as of the first day of the taxable year (of the individual so engaging in such transaction) during which such transaction occurs.

"(B) Account Treated as Distributing All its Assets.-- In any case in which any account ceases to be an individual development account by reason of subparagraph (A) as of the first day of any taxable year—

"(i) all assets in the account on such first day that are attributable to assistance provided under section 733(h)(1) and (2) of the Individual Development Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(ii) the provisions of subsection (d)(1) shall apply as if there was a distribution on such first day in an amount equal to the fair market

value of all other assets in the account on such first day.

"(3) Effect of Pledging Account as Security.-- If, during any taxable year, the individual for whose benefit an individual development account is established, or any individual who contributes to such account, uses the account or any portion thereof as security for a loan--

"(A) an amount equal to the part of the portion so used which is attributable to assistance provided under section 733(h)(1) and (2) of the Individual Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(B) the remaining part of the portion so used shall be treated as distributed under the provisions of subsection (d)(1) to the individual so using such portion.

"(f) Additional Tax on Certain Amounts Included in Gross Income.--

"(1) Distribution Not Used for Qualified Expenses.-- In the case of any payment or distribution that is not used exclusively to pay qualified expenses incurred by the eligible individual for whose benefit the account is established, the tax liability of each payee or distributee under this chapter for the taxable year in which the payment or distri-

bution is received shall be increased by an amount equal to 10 percent of the amount of the distribution that is included in the gross income of such payee or distributee for such taxable year.

"(2) Disqualification Cases.-- If any amount includible in the gross income of an individual for a taxable year because such amount is required to be treated as a distribution under paragraph (2) or (3) of subsection (e), the tax liability of such individual under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be treated as a distribution and included in the gross income of such individual.

"(3) Disability or Death Cases.-- Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the individual development account becomes disabled within the meaning of section 72(m)(7) or dies.

"(g) Community Property Laws.-- This section shall be applied without regard to any community property laws.

"(h) Custodial Accounts.-- For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Administrator of the Community Development Bank and Financial

Institutions Fund, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subsection (c)(2). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) Reports.--

"(1) The trustee of an individual development account established by or on behalf of an eligible individual described in subsection (a)(2)(A) shall--

"(A) prepare reports regarding the account with respect to contributions, distributions, and any other matter required by the Administrator of the Community Development Bank and Financial Institutions Fund under regulations; and

"(B) submit such reports, at the time and in the manner prescribed by the Administrator of the Community Development Bank and Financial Institutions Fund in regulations, to--

"(i) the individual for whose benefit the account is maintained;

"(ii) the organization providing assistance to the individual under section 733(h) of the Individual Development Account Demonstration Act; and

"(iii) the Administrator of the Community Development Bank and Financial Institutions Fund.

"(2) The trustee of any individual development account shall make such reports regarding such account to the Secretary and to the individual for whom the account is, or is to be, maintained with respect to contributions (and the years to which they relate), distributions, and such other matters as the Secretary may require under forms or regulations. The reports required by this subsection--

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such forms or regulations, and

"(B) shall be furnished to individuals--

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such forms or regulations."

(b) Contribution Not Subject to the Gift Tax.-- Section 2503 of the Internal Revenue Code of 1986 (26 U.S.C. 2503)

(relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(h) Individual Development Accounts.-- Any contribution made by an individual to an individual development account described in section 529(c)(2) shall not be treated as a transfer of property by gift for purposes of this chapter."

(c) Tax on Prohibited Transactions.-- Section 4975 of the Internal Revenue Code of 1986 (26 U.S.C. 4975) (relating to prohibited transactions) is amended--

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special Rule for Individual Development Accounts.--An individual for whose benefit an individual development account is established and any contributor to such account shall be exempt from tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual development account by reason of section 529(e)(2)(A) to such account."; and

(2) in subsection (e)(1), by inserting ", an individual development account described in section 529(c)(2)" after "section 408(a)".

(d) Information Reporting.-- Section 6047 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (relating to information returns) is amended by adding at the end of subsection (c) the following new sentence: "To the extent provided by forms or regulations prescribed by the Secretary, the provisions of this section shall apply to any transaction of any trust described in section 529."

(e) Failure to Provide Reports on Individual Development Accounts.-- Section 6693 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (relating to failure to provide reports on individual retirement accounts or annuities) is amended--

(1) in the heading of such section, by inserting "OR ON INDIVIDUAL DEVELOPMENT ACCOUNTS" after "ANNUITIES"; and

(2) by adding at the end of subsection (a) the following new sentence: "The person required by section 529(i) to file a report regarding an individual development account at the time and in the manner required by such section shall pay a penalty of \$50 for each failure, unless it is shown that such failure is due to reasonable cause."

(f) Special Rule for Determining Amounts of Support for Dependent.-- Section 152(b) of the Internal Revenue Code of 1986

(26 U.S.C. 152(b)) (relating to definition of dependent) is amended by adding at the end the following new paragraph:

"(6) A distribution from an individual development account described in section 529(c)(2) used exclusively to pay qualified expenses described in section 529(c)(1) of the individual for whose benefit the account is established shall not be taken into account in determining support for such individual for purposes of this section."

(g) Clerical Amendments.--

(1) The table of parts for subchapter F of chapter 1 of such Code is amended by inserting at the end the following new item:

"Part VIII. Individual Development Accounts."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by amending the item relating to section 6693 to read as follows:

"Sec. 6693. Failure to provide reports on individual development accounts or annuities or on individual development accounts."

(h) Effective Date.-- The amendments made by this section shall apply to contributions made after the enactment of the Act.

## PART D -- ADVANCE EITC STATE DEMONSTRATIONS

SEC. 741. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH  
STATE DEMONSTRATION PROGRAMS.

(a) In General.-- Section 3507 (relating to the advance payment of the earned income tax credit) of the Internal Revenue Code of 1986 is amended by adding at the end the following subsection (g):

"(g) State Demonstrations.--

"(1) In General.-- In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) Designations.--

"(A) In General.-- From among the States submitting proposals satisfying the requirements of subsection (g)(3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of household participating in the program under the Food Stamp program in the immediately

preceding fiscal year, Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 403(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) When Designation May Be Made.-- Any designation under this paragraph shall be made no later than December 31, 1995.

"(C) Period For Which Designation Is In Effect.--

"(i) In General.-- Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1995, and before January 1, 1999.

"(ii) Special Rules.--

"(I) Revocation Of Designations.-- The Secretary may revoke the designation under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) Automatic Termination of Designations.-- Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) has

the effect of immediately terminating the designation under this paragraph (2) and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) Proposals.-- No State may be designated under subsection (g)(2) unless the State's proposal for such designation--

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement

described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned tax credit,

"(F) commits the State to furnishing to each participating resident and to the Secretary by January 31 of each year a written statement showing--

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat the advanced earned income payments as described in subsection (g)(5) and any repayments of excessive advance earned income payments as described in subsection (g)(6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1995.

"(4) Amount and Timing of Advance Earned Income Payments.--

"(A) Amount.--

"(i) In General.-- The method for determining the amount of advance earned income payments made to each participating resident is to conform to the full extent possible with the provisions of subsection (c).

"(ii) Special Rule.-- A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) Timing.-- The frequency of advance earned income payments may be made on the basis of the payroll periods of participating residents, on a single State-

wide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advanced earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) Payments To Be Treated As Payments of Withholding and FICA Taxes.--

"(A) In General.-- For purposes of this title, advanced earned income payments during any calendar quarter--

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of--

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding), and

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under

section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) Advance Payments Exceed Taxes Due.-- If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) State Repayment of Excessive Advance Earned Income Payments.--

"(A) In General.-- Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and therefore is

required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) Excessive Advance Earned Income Payment.-- For purposes of this section, an excessive advance income payment is that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) Repayment Amount. The repayment amount is equal to 50 percent of the excess of--

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of--

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) Repayment Calendar Quarter.-- The repayment calendar quarter is the second calendar quarter of the third calendar year after the calendar year in which an excessive earned income payment is made.

"(7) Definitions.-- For purposes of this section--

"(A) State Advance Payment Program.-- The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) Responsible State Agency.-- The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) Advance Earned Income Payments.-- The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) Participating Resident.-- The term 'participating resident' means an individual who--

"(i) is a resident of a State that has in effect a designated State Advance Payment Program.

"(ii) makes the election described in paragraph (3)(C) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement set forth in subsections (b)(1), (b)(2), (b)(3), and (b)(4)(except that for purposes of this clause (iv), the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State."

(b) Technical Assistance.-- The Secretaries of Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) Annual Reports.-- The Secretary shall issue annual reports detailing the extent to which--

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repaid those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) Authorization of Appropriations.-- For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of \$1,400,000 for fiscal years 1996 through 1999.

TITLE VIII - SELF EMPLOYMENT/MICROENTERPRISE DEMONSTRATIONS  
SEC. 801. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT  
OPPORTUNITIES TO WELFARE RECIPIENTS AND LOW-INCOME  
INDIVIDUALS.

(a) In General.-- The Secretary of Health and Human Services (hereinafter in this section referred to as the

"Secretary") and the Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator"), shall, subject to the availability of appropriations in advance for this purpose, jointly develop a self-employment/microenterprise demonstration program for at least five years in length that will build on the experience of microenterprise and self-employment programs previously carried out by the Federal Government and other entities. The program shall be designed--

(1) to identify regulatory and other barriers that prevent welfare recipients and low-income individuals from increasing self-sufficiency through self-employment and microenterprise development, and to identify and test effective means to eliminate such barriers;

(2) to develop and evaluate promising program models, based upon existing effective practices, which have the potential to (A) increase the number of welfare recipients and low-income individuals who become self-sufficient or increase self-sufficiency through self-employment and microenterprise development and (B) reduce Federal spending on transfer payments and services to welfare recipients and low-income individuals; and

(3) to demonstrate the potential for expanding the capacity of local organizations to provide services,

technical assistance and loans which help welfare recipients and low-income individuals start or expand self-employment or microenterprises.

(b) Use of Intermediaries.-- To carry out such program, the Secretary and Administrator shall jointly enter into agreements with local intermediaries that--

- (1) apply to participate in such program, and
- (2) demonstrate that they are capable of implementing the provisions of the agreement.

(c) Program Design.-- In order to facilitate a randomized evaluation, as provided for in subsection (i)(1) below, the Secretary and Administrator shall identify those predominant and effective program models currently used by existing intermediaries to provide self-employment and related services to low-income individuals, and shall design the demonstration program in order to evaluate at least two distinct types of program models with contrasting levels of technical assistance. In designing the demonstration program, the Secretary and Administrator shall consult with appropriate parties, such as--

- (1) state and local agencies and private, nonprofit organizations with experience in administering self-employment programs that serve low-income individuals; and

(2) other persons with recognized expertise in conducting randomized evaluations of self-employment programs or other related programs.

(d) Assistance to Intermediaries.--

(1) In General.-- To carry out the program, the Secretary and Administrator may provide the following assistance to intermediaries selected to participate in the program--

(A) grants for providing technical assistance to eligible individuals, for operating costs and for costs associated with participating in the evaluation provided for in subsection (i)(1) below;

(B) loans guarantees; and

(C) loans.

(2) Technical Assistance to Intermediaries.--The Secretary and Administrator may provide grants to intermediaries or third-party technical assistance providers for the provision of technical assistance to intermediaries selected to participate in this program.

(3) Termination of Assistance.-- Assistance awarded pursuant to this section may fully fund project periods of up to five years. The Secretary and Administrator may revoke, terminate or reduce assistance to an intermediary if the intermediary fails to comply with the terms of any

agreement it enters into with the Secretary and Administrator.

(e) Selection of Intermediaries.--

(1) In General.-- In determining whether to enter into an agreement with an intermediary under this section, the Secretary and Administrator shall take into consideration--

(A) the intermediary's record of success in serving low-income individuals;

(B) the intermediary's record of success in providing technical assistance or loans to low-income individuals for the purpose of self-employment;

(C) the nature, types, and costs of technical assistance and/or lending methods the intermediary will employ in serving the target population;

(D) the intermediary's ability to obtain matching funds from private sources; and

(E) such other matters as the Secretary and Administrator deem appropriate.

(2) Additional Programs.-- In addition to the demonstration program provided for in subsection (c) above, the Secretary and Administrator may select up to five intermediaries that would employ program models that would operate independently of the randomized evaluation provided for in subsection (i)(1) below, where such program models

demonstrate promising, innovative strategies that could not readily be evaluated by a randomized experimental design.

(f) Eligible Individuals.-- An individual eligible to participate in a program conducted under this section is any low-income individual or welfare recipient. The Secretary and Administrator shall ensure that an appropriate minimum percentage of welfare recipients will participate in each demonstration program funded under this section.

(g) Provisions of Agreements.-- Any agreement entered into with an intermediary under this section shall provide that--

(1) the intermediary has or will have an agreement with the State agency responsible for administering the job opportunities and basic skills training program (as provided for under part F of title IV of the Social Security Act) (hereinafter in this section referred to as the "JOBS" programs) and the Work Program (as provided under part G of title IV of such Act) such that JOBS and Work program funds will be used to provide support services, including training and technical assistance, to welfare recipients who are participating in the demonstration programs funded under this section;

(2) the intermediary will implement a program that is approved by the Secretary and Administrator;

(3) the intermediary will cooperate with any independent evaluator(s) selected pursuant to subsection (i) below; and

(4) the intermediary will meet any other obligations required by the Secretary and Administrator, including any fund matching requirements.

(h) Program Administration.--

(1) In General.-- The Secretary and Administrator shall enter into a memorandum of understanding for the joint administration of the demonstration programs provided for by this section. The designation of intermediaries to participate in the program shall be completed no later than 12 months after the date of appropriation of funds for this Act.

(2) Coordination With Other Agencies.-- The Secretary and Administrator shall also coordinate and consult with the Secretaries of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Labor, on regulatory or other reforms or coordinated efforts by such agencies that may further eliminate barriers to self-employment and legitimize microenterprise development by low-income individuals and welfare recipients.

(i) Evaluation and Report.--

(1) In General.-- The Secretary, in consultation with the Administrator, shall conduct or provide for an evaluation of

the effectiveness of the demonstration program provided for in subsection (c) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries and a final report no later than seven years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group. In designing the evaluation, the Secretary shall consider testing for--

(A) greater self-sufficiency as measured by employment and self-employment rates, amount of earned income, poverty rates, and exit and recidivism rates for Aid to Families With Dependent Children (hereinafter in this section referred to as "AFDC"), Food Stamps and other public assistance programs;

(B) reduced costs of public support as measured by changes in overall support payments for items such as income maintenance, food, child care, health care, housing, job training and other benefits;

(C) number of businesses and jobs created, number of loans to welfare recipients and low-income individuals,

repayment rates for loans, and business performance after welfare or other public assistance ends;

(D) the relative effectiveness, cost-to-benefit ratio, and degree of financial self-sufficiency of the different program models employed by the intermediaries participating in the demonstration program; and

(E) the program's impact and effectiveness in serving participants in a time-limited welfare system, as compared to other low-income individuals.

(2) Evaluation of Additional Programs.-- The Secretary, in consultation with the Administrator, shall also conduct or provide for an independent evaluation of the effectiveness of any program models selected pursuant to subsection (e)(2) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries, and a final report no later than five years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate.

(3) Preliminary Reports to Congress.-- The preliminary reports provided for in paragraphs (1) and (2) of this subsection shall include an analysis of any regulatory or

other barriers that prevent welfare recipients and low-income individuals from becoming self-sufficient through self-employment and microenterprise development.

(4) Required Information.-- The Secretary may require each intermediary selected pursuant to this section to provide the Secretary with such information as the Secretary determines is necessary to carrying out the duties of this subsection.

(5) Early and Regular Information Sharing with Intermediaries.-- The Secretary, in consultation with the Administrator, shall provide early and regular feedback and summaries to intermediaries selected to participate pursuant to this section of the progress of the evaluation, the data collected during the evaluation, preliminary findings and such other information as the Secretary deems appropriate. The Secretary shall provide such feedback and summaries at least once a year for the life of the demonstration.

(j) Authorization of Appropriations.-- To carry out the purposes of this section there are authorized to be appropriated to the Secretary and Administrator--

(1) \$4,000,000 for fiscal year 1997,

(2) \$8,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and

(3) \$4,000,000 for fiscal year 2002.

(k) Definitions.-- For the purposes of this section--

(1) the term "intermediary" means an organization, partnership, or consortium of organizations that acts as a lender and/or as a technical assistance provider to individuals who wish to start or expand a microenterprise;

(2) the term "low-income individual" means an individual whose income level does not exceed 130 percent of the official poverty line as defined by the Office of Management and Budget;

(3) the term "microenterprise" generally means a business that has a net worth of less than \$15,000;

(4) the term "technical assistance" as it relates to assisting a welfare recipient or low-income individual to become self-employed includes business technical assistance, entrepreneurial training, and/or personal development services; and

(5) the term "welfare recipient" means a participant in a time-limited welfare program who is eligible for the JOBS or Work program or a person who is receiving assistance from AFDC.

#### TITLE IX - FINANCING

#### SEC. 901. LIMITATION ON FEDERAL PAYMENTS FOR EMERGENCY ASSISTANCE.

Section 403(a)(5) of the Act is amended to read as follows:

"(5)(A) Each State shall be entitled to payment from the Secretary in an amount equal to 50 percent of the total amounts expended under the State plan in a fiscal year as emergency assistance to needy families with children, but such payment may not exceed the greater of--

"(i) such State's share of the limitation in subparagraph (B) for such fiscal year, or

"(ii) the amount paid by the Secretary with respect to such State's expenditures for emergency assistance to needy families with children for fiscal year 1991.

"(B) The limitation referred to in subparagraph (A) is \$418,000,000 for fiscal year 1995, and for fiscal year 1996 and for each fiscal year thereafter, \$418,000,000 multiplied by the ratio of the Consumer Price Index (prepared by the Department of Labor) for the third quarter of the preceding fiscal year to such Index for the third quarter of fiscal year 1994.

"(C) For purposes of this paragraph, a 'State's share of the limitation in subparagraph (B)' for a fiscal year means--

"(i) such State's share of the EA portion of the limitation (as defined in subparagraph (D)), plus

"(ii) such State's share of the AFDC portion of the limitation (as defined in subparagraph (E)) for the fiscal year involved.

"(D) For the purposes of this paragraph, the EA portion of the limitation is--

"(i) for fiscal year 1995 and each fiscal year thereafter, the limitation for such year, multiplied by--

"(I) 90 percent, minus

"(II) 10 percentage points for each year after 1995.

but never less than zero.

"(E) For purposes of this paragraph, the AFDC portion of the limitation is--

"(i) for fiscal year 1995, the limitation for such year, multiplied by 10 percent, and

"(ii) for fiscal year 1996 and each fiscal year thereafter, the limitation for such year multiplied by--

"(I) 10 percent, plus

"(II) 10 percentage points for each year after 1995,

but never more than 100.

"(F) For purposes of this paragraph--

"(i) a State's share of the EA portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for emergency assistance to needy families with children for quarters in fiscal year 1994 to the sum of such estimated expenditures in all the States for quarters in such year, and

"(ii) a State's share of the AFDC portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for aid to families with dependent children for quarters in the preceding fiscal year to the sum of such expenditures in all the States for quarters in such preceding fiscal year.

SEC. 902. UNIFORM ALIEN ELIGIBILITY CRITERIA FOR PUBLIC ASSISTANCE PROGRAMS.

(a) Federal and Federally-Assisted Programs.--

(1) Program eligibility criteria.--

(A) Aid to Families with Dependent Children.--

Section 402(a)(33) of the Social Security Act is amended by striking "(A) a citizen" and all that follows and inserting the following:

"(A) a citizen or national of the United States,

or

"(B) a qualified alien (as defined in section 1101(a)(10)), provided that such alien is not disqualified from receiving aid under a State plan approved under this part by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law;"

(B) Supplemental Security Income.--Section 1614(a)(1)(B)(i) of such Act is amended to read as follows:

"(B)(i) is a resident of the United States, and is either (I) a citizen or national of the United States, or (II) a qualified alien (as defined in section 1101(a)(10)), or".

(C) Medicaid--

(i) Section 1903(v)(1) of such Act is amended to read as follows:

"(v)(1) Notwithstanding the preceding provisions of this section, (A) no payment may be made to a State under this section for medical assistance furnished to an individual who is disqualified from receiving such assistance by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law, and (B) except as provided in paragraph (2), no such payment may be made for medical assistance furnished to an individual who is not a (i) citizen or national

of the United States, or (ii) qualified alien (as defined in section 1101(a)(10)).".

(ii) Section 1903(v)(2) of such Act is amended by--

(I) striking "paragraph (1)" and inserting "paragraph (1)(B)"; and

(II) striking "alien" each place it appears and inserting "individual".

(iii) Section 1902(a) of such Act is amended in the last sentence by striking "alien" and all that follows and inserting "individual who is not (A) a citizen or national of the United States, or (B) a qualified alien (as defined in section 1101(a)(10)) only in accordance with section 1903(v)".

(iv) Section 1902(b)(3) of such Act is amended by inserting "or national" after "citizen".

(2) Definition of term "Qualified Alien"--Section 1101(a) of such Act is amended by adding at the end the following new paragraph:

"(10) The term 'qualified alien' means an alien--

"(A) who is lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act;

"(B) who is admitted as a refugee pursuant to section 207 of such Act;

"(C) who is granted asylum pursuant to section 208 of such Act;

"(D) whose deportation is withheld pursuant to section 243(h) of such Act;

"(E) whose deportation is suspended pursuant to section 244 of such Act;

"(F) who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;

"(G) who is lawfully admitted for temporary residence pursuant to section 210 or 245A of such Act;

"(H) who is within a class of aliens lawfully present within the United States pursuant to any other provision of such Act, provided that--

"(i) the Attorney General determines that the continued presence of such class of aliens serves a humanitarian or other compelling public interest, and

"(ii) the Secretary of Health and Human Services determines that such interest would be further served by treating each alien within such class as a 'qualified alien' for purposes of this Act; or

"(I) who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is 21 years of age or older, and with respect to whom an application for adjustment to lawful permanent residence is pending;

such status not having changed."

(3) Conforming amendment.--Section 244A(f)(1) of the Immigration and Nationality Act is amended by inserting "and shall not be considered to be a 'qualified alien' within the meaning of section 1101(a)(10) of the Social Security Act" immediately before the semi-colon.

(b) State and Local Programs.--A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision unless such alien is a "qualified alien" within the meaning of section 1101(a)(10) of the Social Security Act (as added by subsection (a)(2) of this section).

(c) Effective Date.--

(1) The amendments made by subsection (a) are effective with respect to benefits payable on the basis of any application filed after the date of enactment of this Act.

(2) Subsection (b) is effective upon the date of enactment of this Act.

SEC. 903. ELIGIBILITY OF SPONSORED ALIENS FOR CERTAIN PROGRAMS.

(a) Deeming of Sponsor's Income and Resources to an Alien Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.

(1) Length of deeming period.--

(A) Making the SSI 5-year period permanent.--

Subsection (b) of section 7 of the Unemployment Compensation Amendments of 1993 (Public Law 103-152) is repealed.

(B) Increasing the AFDC period from 3 to 5 years--  
Section 415 of the Social Security Act is amended by striking "three years" each place such phrase appears and inserting "5 years".

(C) Increasing the Food Stamp period from 3 to 5 years.--Section 5(i) of the Food Stamp Act of 1977 is amended by striking "three years" each place such phrase appears and inserting "5 years".

(2) Inapplicability in the case of any alien whose sponsor receives SSI or AFDC benefits.--

(A) SSI.--Section 1621(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under this title (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93-66) or the program of aid to families with dependent children authorized by part A of title IV of this Act."

(B) AFDC.--Section 415(f) of the Social Security Act is amended--

(i) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by adding at the end the following new paragraph:

"(2) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program authorized by this part, or the program of supplemental security income authorized by title XVI of this

Act (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93-66).".

(C) Food Stamps.--Section 5(i)(2)(E) of the Food Stamp Act of 1977 is amended--

(i) by striking "(E)" and inserting "(E)(i)";

and

(ii) by adding at the end the following:

"(ii) The provisions of this subsection shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act or the program of supplemental security income authorized by title XVI of such Act (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of such Act or section 212(b) of Public Law 93-66).".

(3) Inequitable circumstances.--

(A) SSI.--Section 1621 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or

suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(B) AFDC.--Section 415 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(C) Food Stamps.--Section 5(i)(2) of the Food Stamp Act of 1977 is amended by adding at the end the following new subparagraph:

"(F) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Health and Human Services, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(4) Food Stamps exemption for blind or disabled aliens.--Section 5(i)(2)(E) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(2)(C)) is further amended by adding at the end the following:

"(iii) The provisions of this subsection shall not apply with respect to any individual for any month for which such individual receives a benefit under the program of supplemental security income authorized by title XVI of the Social Security Act by reason of blindness (as determined under section 1614(a)(2) of such Act) or disability (as determined under section 1614(a)(3) of such Act), provided that such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence."

(5) Increase in Food Stamp resource limitation.--

Section 5(i)(2)(B)(ii) of the Food Stamp Act of 1977 is amended by striking "\$1,500" and inserting "\$2,000".

(b) Disqualification of Certain Sponsored Aliens After the 60th Month After Entry into the United States Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.--

(1) In general.--

(A) SSI.--Section 1611(e) of the Social Security Act is amended by inserting between paragraphs (3) and (5) a new paragraph (4) as follows:

"(4)(A) No individual (other than an individual described in section 1621(f)(1)) who is an alien shall be an eligible individual or eligible spouse for purposes of this title with respect to any month beginning after the 60th month after such

individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which--

"(i)(I) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (II) no such return is required by such Code to be so filed, and

"(ii) the Secretary has published the U.S. median income for all families pursuant to subparagraph (B)(i)(I), exceeds the applicable measure of U.S. median income for all families (determined in accordance with subparagraph (B)(i)(II)) for such year.

"(B)(i) The Secretary shall publish twice yearly in the Federal Register a notice--

"(I) setting out the U.S. median income for all families for not fewer than five of the years immediately preceding the year in which such notice is published, and

"(II) identifying the months for which each such figure shall be deemed to be the applicable measure for the purpose of making the determination required by subparagraph (A).

"(ii) The U.S. median income for all families for any year published by the Secretary pursuant to clause (i) shall be the amount reported for such year by the Census Bureau pursuant to its Current Population Survey, except that if such amount has not been so reported for such year at the time such notice is published, then the measure of the U.S. median income for all families for such year shall be derived by increasing the amount reported by the Census Bureau for the immediately preceding year by a percentage equal to the percentage (rounded to the nearest one-tenth of one percent), if any, by which the Consumer Price Index (as prepared by the Department of Labor) for such year has increased over such immediately preceding year."

(B) AFDC.--Section 402(a) of the Social Security Act is amended by--

(i) striking "and" at the end of paragraph (44);

(ii) striking the period at the end of paragraph (45) and inserting "; and"; and

(iii) adding at the end a new paragraph as follows:

"(46) provide that an individual who is an alien may not be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, with respect to any month beginning after the 60th month after such individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which--

"(A)(i) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or  
(ii) no such return is required by such Code to be so filed, and

"(B) the U.S. median income for all families has been published,

exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the preceding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I), and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II).".

(C) Food Stamps.--Section 6 of the Food Stamp Act of 1977 is amended by adding at the end a new subsection as follows:

"(i) No alien who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in such program as a member of that or any other household with respect to any month beginning after the 60th month after such alien's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such alien's entry into the United States) executed an affidavit of support with respect to such alien plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which--

"(1)(A) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (B) no such return is required by such Code to be so filed, and

"(2) the U.S. median income for all families has been published,

exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the preceding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I) of the Social Security Act, and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II) of such Act."

(2) Conforming Amendments.--

(A) Cooperation requirement.--

(i) SSI.--Section 1621(d)(1) of the Social Security Act is amended in the first sentence by--

(I) striking "during the period of 5 years after entry into the United States," ;

and

(II) inserting "or section 1611(e)(4)" after "this section".

(ii) AFDC.--The second sentence of section 415(c)(1) of the Social Security Act (as previously amended by subsection (a)(1)(B) of this section) is further amended by--

(I) striking "during the period of 5 years after his or her entry into the United States"; and

(II) inserting "or section 402(a)(46)" after "this section".

(iii) Food Stamps.--The first sentence of section 5(i)(2)(C)(i) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C) of this section) is further amended by--

(I) striking "during the period of 5 years after entry into the United States," ; and

(II) inserting "or section 6(i)" after "this section".

(B) Liability for overpayments.--

(i) SSI.--Section 1621(e) of the Social Security Act is amended by--

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 1611(e)(4)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor."

(ii) AFDC.--Section 415(d) of the Social Security Act (as previously amended by subsection (a)(1)(B)) is further amended by--

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 402(a)(46)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as

a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor."

(iii) Food Stamps.--Section 5(i)(2)(D) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C)) is further amended by--

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 6(i)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subparagraph is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subparagraph to such individual or to such individual's sponsor."

(3) Disclosure of tax return information.--Section 6103(1)(7)(B) of the Internal Revenue Code of 1986 is

amended by designating the existing matter as clause (i) and adding at the end the following:

"(ii) The Secretary shall disclose, upon request, return information with respect to adjusted gross income (as defined in section 62) from returns filed by, or with respect to, any individual (and such individual's spouse and dependent children, if any) who (as a sponsor of an alien's entry into the United States) executed an affidavit of support with respect to such alien and whose income is considered in connection with determining such alien's eligibility for a program described in clause (i), (iii), or (vi) of subparagraph (D) to any Federal, State, or local agency administering such program, but only for the purpose of, and to the extent necessary, in determining the eligibility of such alien for benefits under such program.

"(iii) Information regarding any determination made pursuant to section 402(a)(46) or 415 of the Social Security Act (relating to the aid to families with dependent children program), section 1611(e)(4) or 1621 of such Act (relating to the supplemental security income program), or section 5(i) or 6(i) of the Food Stamp Act of 1977 (relating to the program of assistance under that Act) in connection with determining an alien's eligibility for benefits under any such program shall not be considered to be return information subject to the limitations on disclosure or redisclosure imposed by this section."

(c) State and Local Programs.--A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision for any month if such alien has been determined to be ineligible for such month for benefits under--

(A) the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, as a result of the application of section 402(a)(46) or 415 of such Act;

(B) the program of supplemental security income authorized by title XVI of the Social Security Act, as a result of the application of section 1611(e)(4) or 1621 of such Act; or

(C) the Food Stamp Act of 1977, as a result of the application of section 5(i) or 6(i) of such Act.

(d) Effective Date.--

(1) Except as otherwise provided in paragraph (2), the amendments made by subsections (a) and (b) are effective with respect to benefits under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, the program of supplemental security income authorized by title XVI of the Social Security Act, and the program authorized by the Food

Stamp Act of 1977, payable for months beginning after September 30, 1994, on the basis of--

(A) an application filed after such date, or

(B) an application filed on or before such date by or on behalf of an individual subject to the provisions of section 1621(a) or section 415(a) of the Social Security Act or section 5(i)(1) of the Food Stamp Act of 1977 (as the case may be) on such date.

(2) The amendments made by clauses (i)(III), (ii)(III), and (iii)(III) of subsection (b)(2)(B) are effective upon the date of enactment of this Act.

(3) Subsection (c) is effective on October 1, 1994.

SEC. 904. FAMILY DAY CARE HOMES.

(a) Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) is amended --

(1) in paragraph (1), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(2) in paragraph (2), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(3) in paragraph (3), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(4) by redesignating paragraph (4) as paragraph (6);  
and

(5) by inserting after paragraph (3) the following new paragraphs:

"(4) For purposes of this section, the level one reimbursement factor for family or group day care homes shall be \$1.5050 for lunches or suppers, \$.8275 for breakfasts, and \$.4475 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for which data are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent."

"(5) For purposes of this section, the level two reimbursement factor for family or group day care homes shall be \$1.2675 for lunches or suppers, \$.5375 for breakfasts, and \$.25 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for

which date are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent."

(b) Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended--

(1) by adding after subparagraph (C) the following new subparagraph:

"(D) The Secretary shall make payments, totalling not more than \$2,000,000 in fiscal year 1995 and \$5,000,000 in fiscal year 1996, to provide grants to States: for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations and other appropriate organizations; for securing and providing training, materials, automated data processing assistance, and other assistance for the staff of such sponsoring organizations; and for providing training and other assistance to family or group day care homes in order to assist in the implementation of the requirements contained in this subsection. Of the amount of funds made available to each State under this subparagraph,

an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph;";

(2) in subparagraph (A), by deleting ", except that reimbursement shall not be provided" and all that follows through "nearest one fourth cent." and inserting in lieu thereof "as set forth in subparagraphs (B) and (C).";

(3) by redesignating subparagraphs (B), (C) and (D) (as added by paragraph (1)) as subparagraphs (D), (E), and (L) respectively;

(4) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Sponsoring organizations of family or group day care homes located in low-income areas shall be reimbursed for meals or supplements served to children in those homes at the level one reimbursement rates established in subsection (c)(4) of this section.

"(C) Sponsoring organizations of family or group day care homes, except family or group day care homes covered under subparagraph (B) of this subsection, shall be reimbursed for meals or supplements served to children in those homes, at the election of the family or group day care home, either --

"(i) at the level two reimbursement rates established in subsection (c)(5) of this section; or

"(ii)(I) for meals and supplements served to children from households that meet the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in subsection (c)(4) of this section; and

"(II) for meals and supplements served to children from families who do not meet the requirements of paragraph (C)(ii)(I) of this subsection, at the level two reimbursement rates established in subsection (c)(5); or

(iii) for meals and supplements served to children in family or group day care homes in which the family or group day care home provider meets the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in section (c)(4) of this section.";

(5) by adding at the end of subparagraph (D) (as redesignated by paragraph (3)) the following: "In addition, family or group day care home sponsoring organizations shall receive for their administrative expenses an additional \$10 per month for each home located in a low-income area."; and

(6) by adding after subparagraph (E) (as redesignated by paragraph (3)) the following new subparagraphs:

"(F) Notwithstanding subparagraph (C), reimbursement shall not be provided for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the income eligibility guidelines for free or reduced price meals under section 9(b) of this Act. Where so qualifying, the family or group day care home sponsoring organization shall be reimbursed for those meals and supplements at the level one rates established in subsection (c)(4).

"(G) For family or group day care home providers who elect to use the procedures under paragraph (3)(C)(ii) of this subsection, the Secretary shall implement streamlined and simplified counting and claiming procedures, provided that such procedures do not compromise program accountability.

"(H) Sponsoring organizations of family or group day care homes (other than those located in low-income areas)

may receive the level one reimbursement rates for meals and supplements established in subsection (c)(4) of this section for those children with a parent participating in the programs established under part F or G of title IV of the Social Security Act, the at-risk child care program under title IV of such Act, or a Federal or a State child care program with an income eligibility limit that does not exceed the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act.

"(I) For purposes of this section, 'low-income areas' is defined to mean "areas in which poor economic conditions exist" as defined in Section 13(a)(1)(C) of this Act.

"(J) For purposes of this section, determinations made by the State agency which establish that a family or a group day care home is located in a 'low income area' shall be in effect for 3 years, unless the State agency determines that the area in which the home is located is no longer a 'low income area'.

"(K) The Secretary shall make payments, totalling not more than \$5,000,000 in each of fiscal years 1997, 1998, 1999, and 2000 to provide grants to States for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations, to assist family or

group day care homes in low-income areas to become licensed or approved for the program under this section. Of the amount of funds available to each State under this subparagraph, an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph. Any payments received under this subparagraph shall be in addition to payments which States receive under subsection (b) of this section."

(c) Effective Dates.

(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on July 1, 1996.

(2) The amendment made by subsection (b)(1) shall take effect on the date of enactment of this Act.

SEC. 905. STATE RETENTION OF AMOUNTS RECOVERED.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025 (a)) is amended by striking "1995" both places it appears in the proviso of the first sentence and inserting in both places in lieu thereof "2004".

SEC. 906. COMMODITY PROGRAM INCOME INELIGIBILITY.

Notwithstanding any other provision of law, a person with annual off-farm adjusted gross income in excess of \$100,000, as determined by the Secretary of Agriculture, shall not be eligible to receive from the Commodity Credit Corporation income support

and price support through loans, purchases, payments, and other operations. The Secretary of Agriculture shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations issued in accordance with section 1001 of the Food Security Act of 1985, as amended.

SEC. 907. AMENDMENTS RELATED TO SUPERFUND TAX EXTENSION.

(a) Extension of Termination Date.-- Paragraph (1) of section 59A(e) of the Internal Revenue Code of 1986 (26 U.S.C. 59A(e)(1)) is amended by striking "January 1, 1996" and inserting "February 1, 1998".

(b) Adjustments to Amounts Collected.-- Paragraph (3) of section 4611(e) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(e)(3)) is amended--

(1) by striking "December 31, 1995" and inserting "September 30, 1998";

(2) by striking "\$11,970,000,000" each time it appears and inserting "\$15,500,000,000"; and

(3) by striking "January 1, 1996" and inserting "October 1, 1998".

(c) Effective Date.-- The amendments made by subsections (a) and (b) shall apply to amounts collected and amounts credited after the date of the enactment of this Act.

SEC. 908. FEDERAL RAILROAD ADMINISTRATION USER FEES.

Section 216 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 447) is amended--

(1) by striking subsection (a)(3) and inserting the following:

"(3) Fees established under this section shall be assessed to railroads subject to this chapter and shall cover all costs incurred by the Federal Railroad Administration in administering this chapter, and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49, other than activities described in section 431(a)(2) of this title.";

(2) by inserting before the period in subsection (c) ", and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49"; and

(3) by striking subsections (e) and (f).

SEC. 909. SPECIAL EARNED INCOME TAX CREDIT RULES FOR MILITARY PERSONNEL.

(a) Modified Residency Requirement.-- Subparagraph (E) of section 32(c)(3) (defining qualifying child) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "The preceding sentence does not apply during any period during which the taxpayer is stationed outside

the United States while serving on extended active duty (as defined in section 1034(h)(3)) with Armed Forces of the United States."

(b) Reporting Military Earned Income.-- Subsection (a) of section 6051 (relating to receipts for employees) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by inserting after paragraph (9) the following paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, the total amount of earned income (as defined in section 32(c)(2))."

(c) Advance Payment of Earned Income Tax Credit.-- Paragraph (1) of section 3507(c) (defining earned income advance amount) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "For purposes of subparagraph (A) in the case of an employee who is a member of the Armed Forces of the United States, the employee's earned income (as defined in section 32(c)(2)) shall be taken into account rather than the employee's wages."

(d) Effective Dates.-- The amendments made by this section shall apply to taxable years beginning and remuneration paid after December 31, 1994.

SEC. 910. NONRESIDENT ALIENS NOT ELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) In General.-- Section 32(c)(1) (defining eligible individual) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) Exception for Nonresident Aliens.-- The term 'eligible individual' does not include a nonresident alien unless an election under section 6013(g) (relating to treating a nonresident alien individual as a resident of the United States) or section 6013(h) (relating to the year in which a nonresident alien becomes a resident of the United States) is in effect for the taxable year with respect to the nonresident alien.

(b) Effective Date.-- The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 911. EXTENSION OF CERTAIN CUSTOMS FEES.

Subsection (j)(3) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (19 U.S.C. 58c), is amended to read as follows:

"(3) Fees may not be charged under subsection (a) of this section after September 30, 2004."

## TITLE X -- EFFECTIVE DATES

## SEC. 1001. EFFECTIVE DATES.

(a) In General. -- Except as otherwise provided and subject to subsection (b), the amendments and repeals made by this Act, other than title VI, shall become effective with respect to periods beginning on or after October 1, 1995.

(b) The Secretary of Health and Human Services may, upon the request of a State, delay the effective date prescribed by subsection (a) with respect to such State upon a showing of circumstances beyond the State's control, but such extension may not extend beyond October 1, 1996.

(c) Notwithstanding any other provision of law, no State shall be found to have failed to comply with any requirement imposed on such State's programs by or pursuant to the amendments made by titles I and II of this Act by reason of its failure to have such program (or requirements) in effect Statewide if such program is in effect Statewide not later than 2 years after the effective date specified in subsection (a), or 2 years after such later date as is approved by the Secretary pursuant to subsection (b).

**WORK AND RESPONSIBILITY ACT**

**OF 1994**

**LEGISLATIVE SPECIFICATIONS**

**WORK AND RESPONSIBILITY ACT**  
**OF 1994**

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# WORK AND RESPONSIBILITY ACT

OF 1994

## INTRODUCTION

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at \$9.3 billion over five years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The "Work and Responsibility Act of 1994" will replace welfare with work. Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the workforce as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It recognizes that preventing teen pregnancy and out-of-wedlock births is critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. The legislation also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

The "Work and Responsibility Act of 1994" proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it.

## JOBS, TIME LIMITS AND WORK [Title I, Title II]

**Definition:** A "subsidized job" is defined as a position subsidized under either the JOBS or the WORK program.

### 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 would 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 would 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 would serve as a general accord, the employability plan would 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 participant's 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 would be designed so as to help individuals secure lasting employment as soon as possible. Employability plans could 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 earliest date for which payment was made. 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 would 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 participants, 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 could not reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes would 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 could 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 wished 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 the new provisions, a much greater percentage of AFDC recipients would be required to participate in JOBS. Single-parent and two-parent families would be treated similarly under the new JOBS system. Persons not yet ready for participation in JOBS would be deferred, temporarily in many cases, from such participation. The State agency would, when appropriate, assist such individuals in filing for Supplemental Security Income (SSI) or Disability Insurance (DI). 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 was 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 a vocational rehabilitation program 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 were 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 would 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.
- (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 as few as 6 months in any 13-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 would 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 would 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 (up to 40 at State option), 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 placed separate limits on AFDC-UP eligibility (e.g., 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 would be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States would continue to have broad latitude in determining which services were 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 or the equivalent. 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)(B) 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 were 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 less 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.

- (f) Persons meeting the minimum work standard would be required to accept additional hours of unsubsidized work if offered, provided such work met the relevant standards (e.g., health and safety) for unsubsidized employment and the total number of hours did not exceed an average of 35 per week. Such individuals would also be prohibited from reducing the number of hours worked with the intent of receiving additional benefits.

## 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 would be phased in over time.*

### Specifications

- (a) The JOBS program targeting requirements would be eliminated. The separate AFDC-UP participation standards in current law would remain in place.
- (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 met 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 Group

#### Specifications

- (f) A State 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 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 (\$300 million of which would be designated for the Secretary's Fund; see below), \$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 who were 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 WORK match rate (capped entitlement), 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 could 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 were 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 JIPA 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 would 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 assignment" and "WORK position" are defined as a job in the public, private or not-for-profit sectors to which an individual is currently assigned under the WORK program.

### 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 FY 2003 and \$1.7 billion for FY 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 Consumer Price Index (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. After completing an assignment, an individual could not be reassigned to the same WORK position.
- (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.

- (c) No participant would be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer.

## 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 and the requirements relating to wages, benefits or working conditions described in these specifications.
- (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. WRITTEN NOTIFICATION OF LABOR ORGANIZATIONS

##### Specifications

- (a) No WORK position could be established with an employer unless the local labor organization representing employees of such employer who were engaged in the same or substantially similar work as that proposed to be carried out under such position had been provided written notification of the initial assignment of a participant to such a position not less than 30 days prior to the commencement of such an assignment. No such notification would be required with respect to the subsequent assignment of participants to the same position with the same employer.
- (b) If a local organization which was provided notice of an assignment pursuant to (a) above objected to an assignment of a participant on the basis that such assignment would violate the requirements relating to nondisplacement, wages, benefits or working conditions as described in these specifications, such organizations could, as an alternative to the grievance procedures as described above, file a complaint pursuant to an expedited grievance procedure. Such expedited procedure would be carried out in accordance with the binding arbitration procedures described above, except that—
- (1) the request for arbitration would have to be filed within 30 days of receiving written notice

- (2) the arbitrator would be jointly selected by the parties not later than 10 days after the request for arbitration, or, if the parties were unable to agree, appointed by the Federal Mediation and Conciliation Service (or another entity, if agreed to by the parties) not later than 15 days after the request for arbitration, and
  - (3) the arbitration proceeding would be conducted and a decision issued not later than 30 days after the request for arbitration.
- (c) If a local organization filed a complaint pursuant to the expedited grievance procedure described in this section of the specifications, a participant could not be placed in the prospective WORK position that was the subject of the complaint until it was determined, pursuant to the expedited grievance procedure, that such placement would not be in violation of any of the relevant provisions in these specifications.

## 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 had the ability to perform and which would 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 40 hours per week during a month.

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

### 32. EARNINGS SUPPLEMENTATION

#### Specifications

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

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

#### Specifications

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

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

#### 34. SUPPORTIVE SERVICES/WORKER SUPPORT

##### Specifications

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

### 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 a recipient is notified, prior to the issuing of a sanction notice, that he or she in apparent violation of a program requirement and that he or she has 10 days to contact the State agency to explain why he or she is not out of compliance or to indicate 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 Unemployment Insurance 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 without good cause turned down an offer of an unsubsidized job that met the minimum work standard 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 40 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 had 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 ALLOTMENTS

#### Vision

*Establish a fund that the Secretary would use to provide additional funding for States that spend beyond their JOBS/WORK allotments and re-allotments. A sum of \$300 million would be put into the fund initially. Thereafter, any unspent JOBS/WORK and At-Risk child care monies would 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 dollars 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 as the basic JOBS/WORK allotment and subject to the same Federal matching rates each year as were in effect for standard JOBS/WORK funding. The same between-program reallocation rules as those for the base JOBS/WORK funding would also be in effect. That is, States could move 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 had not been reallocated to the States (see JOBS FUNDING and WORK FUNDING above).

- (f) Beginning in fiscal year 1998, the Secretary's Fund would be capped at \$400 million (after all requests had been satisfied). Excess monies would revert to the Treasury.

- (g) Beginning in FY 98, States could request monies for both JOBS and WORK. The monies from the Secretary's Fund that States added to their standard WORK program allocation would 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.*

1. 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. In instances in which a child support award had not yet been established, the State could require, as a additional condition of eligibility, that the non-custodial parent cooperate in the establishment process. 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 would 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 would be given the opportunity to do so. Second, that all Indians, not just Tribal members, would 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 (CMLA) which does not apply to Indian tribes and Alaska Native organizations. CMLA 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 would 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 would 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 would be responsible for the determination as to whether an AFDC recipient is to be deferred.

### 7. EXTENSIONS

### Vision

*Tribal JOBS grantees would be responsible for granting extensions to time limited AFDC benefits and would not necessarily be held to the same limitation on the granting of extensions as would 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 would 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 would 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 would 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 would 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 would 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 would 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 would 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 would 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. The CCDBG health and safety standards, however, could not be waived.
- (e) The Secretary shall develop appropriate data collection requirements.
- (f) Appropriate performance measures would be developed.

### 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 takes, 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.

## PROVISIONS FOR TERRITORIES

### Vision

*As under current law, Territories would be required to operate a JOBS program. However, Territories would 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) would enable Territories to meet their expanded child care needs. Additionally, the Secretary would have flexibility to accommodate special circumstances faced by Territories.*

### Specifications

#### 1. JOBS AND TIME LIMITS

- (a) Funding level for JOBS would be at the enhanced match rate (described in JOBS FUNDING above). The JOBS allocation methodology would be the same as under current law.
- (b) Time-limits would 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 Territory-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 would 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 displacements 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 a violation of any non-displacement, grievance, or consultation provisions specified in the JOBS, TIME LIMIT AND WORK section.
- (h) Funds available to carry out a demonstration program may not be used to assist, promote, or deter union organizing.
- (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. Increased Funding for Child Care

- (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. If the State unemployment rate increases dramatically, the amount of the required match would be reduced. Similarly, the capped entitlement would be increased in the event of high unemployment nationwide. (See description in *JOBS, TIME LIMITS AND WORK* section)
- (b) Change the State match for all other IV-A child care programs to the new, enhanced match for other IV-A services.

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 (those 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.*

*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 payment 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 and social security numbers 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. The Food Stamp population for the selected States can not equal more than 5% of the Food Stamp caseload nationwide.
- (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.
- (l) 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. These demonstration programs shall not exceed three years in duration.
- (m) AFDC and Food Stamp administrative funds can be used to pay for these provisions.

## 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.*

## PERFORMANCE MEASURES PROPOSAL [Title IV]

### Vision

*The provisions described in this section initiate a process that will result in the development and implementation of a comprehensive performance measurement system which reflects and reinforces the emerging "culture" of the redesigned welfare system.*

### Current JOBS Law

*Under the SSA section 487 [FSA Section 203(b)] not later than October 1st, 1993, the Secretary of Health and Human Services shall:*

*(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and*

*(2) submit his/her recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may be reasonably expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation. Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.*

### Current JOBS Program Performance Measures

Participation rate for all AFDC recipients required to participate in JOBS (45 CFR 250.74(b) and 250.78) - For Fiscal Year 1994 the required participation rate is 15%. This is to ensure that a minimum proportion of the AFDC adult population is participating at a meaningful (significant) level.

Participation rate for AFDC-UP recipients (45 CFR 250.74(c)) - For Fiscal Year 1994 the required participation rate is 40%. This is to ensure that a minimum proportion of the AFDC-UP principal wage earners or their spouses engage in work activities.

Target group expenditures (45 CFR 250.74(a)(1)) - At least 55% of a State's JOBS expenditures must be spent on applicants and recipients who are members of the State's target populations as defined at 45 CFR 250.1. This is to ensure that the hard to serve are served by requiring that 55% of IV-F expenditures are spent on the target groups defined in the statute or, if different, approved as a part of the State's JOBS plan.

### Current Data Reporting System

The JOBS Case Sample Reporting System (CSRS) was established to meet some of the reporting requirements mandated by section 487 of the Social Security Act. However, the data necessary to establish participation rates is collected through both CSRS and aggregate hard copy. Only data necessary to establish the numerator for overall participation is collected through CSRS. The population from which each State must draw its sample (or in lieu of drawing a sample, the State may

submit the entire population each month) is defined as the number of JOBS participants that were engaged in at least one hour of activity in an approved JOBS program component during the sample month. In addition to JOBS program data, a limited amount of demographic data and child care data is also required to be submitted.

### Current QC Law

Under section 408 of the Social Security Act, States are required to operate a quality control system in order to ensure the accuracy of payments in the AFDC program. States operate the system in accordance with time schedules, sampling methodologies, and review procedures prescribed by the Secretary. The law defines: what constitutes a payment error; how error rates and disallowances are calculated; the method for adjusting State matching payments; and the administrative and judicial reviews available to States subject to disallowances because of error rates in excess of the national standard (i.e., the national error rate for each year).

The AFDC-QC system functions primarily as a monitoring/auditing system. Its primary purpose is to establish the correctness with which payments are made to AFDC cases in each State. The AFDC-QC system also obtains the data necessary to produce the publication entitled "Characteristics and Financial Circumstances of AFDC Recipients." The AFDC-QC system is not used to meet any of the reporting requirements for the AFDC program. Subsequent to the establishment of this system, which is a subsystem of the National Integrated Quality Control System (NIQCS), OMB required additional AFDC data be collected to replace the biennial survey of AFDC families that had been in place through 1979.

### Vision

*One objective of welfare reform is to transform the "culture" of the welfare system, from an institutional system whose primary mission is to ensure that poor children have a minimal level of economic resources to a system that focuses equal attention on the task of integrating their adult caretakers into the economic and social mainstream of society. We envision an outcome-based performance measurement system that consists of a limited set of broad measures and focuses State efforts on the goals of the transitional support system -- helping recipients become self-sufficient, reducing dependency, and moving recipients into work. The system would be developed and implemented over time, as specified in statute. Interested parties will be included in the process for determining outcome-based performance measures and standards.*

*Until a system incorporating outcome-based standards can be put in place, State performance will be measured against service delivery measures as specified in statute. These service delivery standards would be used to monitor program implementation and operations, provide incentives for timely implementation, and ensure that States were providing services needed to convert welfare into a transitional support system. The current targeting and participation standards would be eliminated (see draft specifications on JOBS, TIME LIMITS, AND WORK). The new service delivery measure for JOBS would ensure that a substantial portion of such cases are being served on an ongoing basis. As soon as WORK program requirements begin to take effect (i.e., two years after the effective date of the start of the phase-in), States would be subject to a performance standard under the WORK program. Until automated systems are operational and reliable, State performance vis-a-vis these service delivery measures would be based on information gathered through the modified QC system.*

*Within a specified time period after enactment of this bill, the Secretary will develop a broader system of standards which incorporates measures addressing the States' success in moving clients toward self-sufficiency and reducing their average tenure on welfare. All accompanying regulations to this section shall be published within 12 months of the enactment of this act, unless an effective date is otherwise specified.*

### Rationale

*The standards against which systems performance are judged must reflect the emerging mission or goal of the reformed system. The existing Quality Control (QC) system may actually create counterproductive incentives for States attempting to cope with this emerging institutional environment. QC focusses on how well the income support function is done to the exclusion of other systems goals. This directly shapes the atmosphere of and feel within welfare agencies; how personnel are selected and trained, how administrative processes are organized, and the basis for allocating organizational rewards.*

*It is a simple reality that the management and technological demands which emerge from a system designed to change how people function are more complex than those for an income support system. Strategies that judge performance solely by inputs or effort will no longer be adequate. The new system eventually must be judged by what is accomplished rather than how it is accomplished. At the same time, the challenges of transforming organizational cultures cannot be ignored; we must remain cognizant of the implementation and operational challenges all levels of government will confront in moving to the new system.*

*In response to the demands imposed by substantive organizational change, the "official" focus of the QC system will be revised to include program outcomes in addition to payment accuracy. The QC system should reflect the new mission of the system without jeopardizing the integrity of the program as it is currently understood. This can be achieved through the development of performance measures and standards that reflect the degree to which the policy is implemented as intended and which eventually focus on results, while ensuring that the residual income support functions are administered competently. The goal is that payment accuracy and other designated performance standards be given equal priority by the welfare agency.*

*Provisions 1 through 3 generally deal with requirements and procedures for establishing performance outcomes; provisions 4 and 5 deal with developing service delivery measures and standards to assess whether the program is being implemented and operated as intended; and provision 6 provides the necessary authority to modify the QC system to carry out the monitoring functions specified in the Act.*

### Specifications

#### 1. Establishing an Outcome-Based Performance Standards System

### Vision

*Part 1: This provision provides general authority to the Secretary of DHHS to establish an outcome-based performance standards system.*

*The vision governing welfare reform is consistent with the theme of "reinventing government." Ultimately, this means less federal prescription, greater local flexibility and responsibility, and the measurement of success by outcomes and not inputs or effort.*

## Rationale

*These provisions establish and reinforce the goal that State performance eventually will be judged by the results they achieve and not the way they achieve those results. This means keeping a focus on the goals of reform; moving clients toward self-sufficiency and independence while ensuring the overall well-being of children and their families.*

## Specifications

- (a) In accordance with the effective dates specified, in order to assess State performance, the Secretary shall enact an outcome-based performance standards system that will measure the extent to which the program helps participants improve their self-sufficiency, their independence from welfare, their labor market participation, and the economic well-being of families with children. As specified below, the Secretary shall first develop outcome-based performance measures and then shall take steps to set expected standards of performance with respect to those measures. The system will also include performance standards for measuring the extent to which individuals are served by the transitional support system (i.e., service delivery standards).
- (b) The current quality control system shall be revised to reflect the new performance standards system (*see section on Quality Control*).
- (c) The Secretary shall publish annually State-level data indicating State performance under such a system.
- (d) Amend Sec. 487 (b) to read: The Secretary may require States to gather such information and perform such monitoring functions as are appropriate to assist in the development of such a performance measurement system and shall include in regulations provisions establishing uniform reporting requirements for such information.
- (e) In adopting performance standards the Secretary shall use appropriate methods for obtaining data as necessary, which may include access to earnings records, State employment security records, State Unemployment Insurance records, and records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986); drawing reliable statistical samples and revising QC reviews of AFDC payment and case information; and using appropriate safeguards to protect the confidentiality of the information obtained.
- (f) The Secretary shall, in consultation with appropriate interested parties, review and modify the performance measures and standards, and other components of the performance measures system periodically as appropriate.

## 2. Developing an Outcome-Based Performance Measurement System

### Vision

*Part 2: This provision requires the Secretary to propose a specific set of intermediate outcome measures and establishes a process and timetable for doing such.*

*Before outcome-based standards are established, a set of outcome-based measures will be put in place. (Note: a measure is merely an aspect of the program on which data is collected; a standard is a specific level of performance that is expected of States or agencies with respect to that measure.)*

*These provisions are viewed as the first step toward developing a true outcome-based performance measurement system and recognize complementary work taking place in other agencies.*

### Rationale

*Recognizing the complexity of this task, this legislation incorporates a prudent strategy that moves forcefully, yet with reasonable caution in the direction of developing an outcome-based performance system.*

### Specifications

- (a) By April 1, 1996, for the purposes of enacting a performance measurement system, the Secretary will develop recommendations for specific outcome-based performance measures (with proposed definitions and data collection methodologies) and shall solicit comments from the Congress, Secretaries of Labor, Education, and other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons (hereinafter referred to as *interested parties*).
- (b) The recommendations shall include the percentage of the caseload who reach the 2-year time-limit and may include but shall not be limited to measures which examine:
  - (i) factors used in section 106 of the Job Training Partnership Act and any subsequent amendments such as placement and retention in unsubsidized employment and a reduction in welfare dependency; and,
  - (ii) other factors as deemed appropriate by the Secretary.
- (c) Based on comments from the interested parties, the Secretary will finalize the measures and will publish them in the Federal Register by October 1, 1996.

### 3. Implementing an Outcome-Based Performance Measurement System

#### Vision

*Part 3: This provision requires the Secretary to set standards of performance for States to meet with respect to the measures developed under prior provisions and sets some procedural guidelines for setting those standards.*

*Knowing what we want to accomplish is different from setting concrete expectations for States about what they ought to accomplish. The standards should be set carefully, with adequate time to obtain input from stakeholders and interested parties and to fully assess the potential impact of the standards.*

#### Rationale

*It is important to provide sufficient time to think through an appropriate set of measures with relevant parties and to carefully consider what kind of realistic standards might be set with respect to those measures. The legislation sets a time period to consider important measurement issues and what consequences should be set for failure to meet established standards.*

### Specifications

- (a) By April 1, 1998, for the purposes of enacting outcome-based standards, the Secretary, in consultation with interested parties, shall present recommendations for performance standards based on the performance measure information (as specified above) and other appropriate information.
- (b) Based on comments from the interested parties, the Secretary will finalize the standards and will publish them in the Federal Register by October 1, 1998.
- (c) The Secretary shall amend the regulations for this Act to establish the penalties and incentives for the proposed standards by October 1, 1998. These regulations shall specify that the incentives may be paid from penalty payments collected and available funds in the Secretary's Fund, such that the result of such payments shall be cost-neutral.

### 4. Service Delivery Standards

#### Vision

*Part 4: This provision requires that certain standards be set to determine how well States are implementing key aspects of the new system and sets rewards and penalties based on those standards.*

*To ensure that welfare systems are operating the program as intended, the new performance system will provide for awards and penalties for State performance through adjustments to the State's claims for federal matching funds on AFDC payments and on JOBS service dollars. These measures are designed to provide positive and negative incentives to States to serve recipients under the new transitional system and to monitor program operations. States would be subject to financial incentives for a monthly participation rate in JOBS and a participation rate in WORK. In addition, the caps on JOBS extensions and deferral assignments and State accuracy in keeping of the two-year clock are considered service delivery standards.*

#### Rationale

*Because major changes to the welfare system are being proposed, it is critical that the extent to which the intent of the law is being realized be monitored carefully. Measuring critical aspects of the new program will provide necessary feedback upon which to judge progress toward changing the "culture" of the welfare system, while the proposed set of incentives and penalties will keep States focused on the required changes.*

#### Specifications

- (a) Upon enactment of this act, the Secretary shall implement service delivery measures for purposes of accountability and compliance.
- (b) States shall be subject to service delivery standards upon the effective date of the new JOBS program. States shall begin reporting and validating data for service delivery measures no later than 12 months following the publication of the JOBS/WORK regulations in a manner to be prescribed by the Secretary.

- (c) The service delivery standards apply only to the phased-in mandatory population that is subject to the time limit (including those additional groups a State can opt to include in the phase-in group).
- (d) Monthly Participation Rate in JOBS: Similar to current law, States are expected to meet a monthly participation rate. Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the State's monthly participation rate shall be expressed by a percentage, and calculated as follows:
  - (i) The denominator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the deferral status)
  - (ii) The numerator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the deferral status) who participate in an activity, are employed and meet the minimum work standard (and remain on aid), or are in the sanctioning process as defined by JOBS program rules. The definition of *participation* for the purposes of calculating the monthly participation rate will be determined in regulation.
- (e) The performance standard for the JOBS monthly participation rate is set at 50 percent, with a -5/+5 tolerance level, with financial penalties if the standard is not met and financial incentives if the standard is exceeded. For the proportion of caseload below the standard (45%), a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to calculate the amount of the penalty. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) There will be no penalties or additional payments for those States with participation rates between 45 and 55 percent. Penalties will not be assessed in the first year of program operation.
- (f) If a State exceeds the JOBS monthly participation rate (55%) in a fiscal year, the State will be entitled to receive an additional payment (without the requirement of any additional nonfederal share) for use in carrying out its JOBS program. The payments will be made from penalties collected from State performance on other service delivery measures and from the Secretary's Fund. The Secretary shall determine the amount of the payments.
- (g) WORK Program Participation Rate: To ensure that individuals who reach the time limit are assigned to work slots, States will be expected to meet a WORK participation standard. Financial penalties are applied if the standard is not met. The WORK performance measure would take effect two years after the effective date of this legislation (*see JOBS, TIME LIMITS, AND WORK section*). To meet this standard, States are required to meet either:
  - (i) Case 1: The number required so that 80 percent of those who are registered for the WORK program are assigned to a WORK slot or are in other defined statuses (as explained below). Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the WORK participation rate is expressed as a percentage and is calculated as follows: (1) The denominator consists of two parts: first, the average monthly number of individuals who are registered for the WORK program (i.e., excluding those in the deferral status); and second, the average monthly number of individuals who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. (2)

The numerator consists of the average monthly number of individuals who are assigned to a WORK slot, are in the sanctioning process as defined under the WORK program rules, are participating in a WORK job search activity between WORK assignments (for a period of up to three months), or, who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. The exact definition of the rate will be specified in regulation. Or,

- (ii) **Case 2:** The number required so that total number of WORK slots the State is required to create, based on their funding allocation, are filled by individuals assigned to a WORK slot. Under this option, the number of WORK slots the State is required to create will be determined by dividing the annual capped WORK allocation by a figure representing the cost per work slot, with the latter to be determined by the Secretary.
- (h) For the proportion of caseload below the applicable standard, a 25 percent *reduction* in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.)
- (i) States will be required to place individuals who have most recently hit the time-limit into WORK slots prior to other WORK participants (e.g., those who have already completed a slot and are awaiting re-assignment).
- (j) Caps on Deferrals and JOBS Extensions: For any cases above the cap for deferrals and/or above the cap for JOBS extensions, a 25 percent *reduction* in the FFP for their AFDC benefits will be levied, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. The penalties do not apply if the State submitted a proposal to the Secretary to raise the cap and the Secretary granted such a waiver. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) (see also JOBS, TIME LIMITS, AND WORK section)
- (k) As appropriate, the Secretary may require States to report other data elements related to the provision of JOBS and WORK services, such as the provision on teen case management services. Such additional reporting requirements will be specified in regulation no later than 12 months following the enactment of this act.
- (l) States are not eligible for additional payments for exceeding the JOBS monthly participation rate if the Secretary determines:
  - (i) the accuracy of a State's time-clock fails the threshold standards for time-clock accuracy, as defined subsequently in regulations; and/or,
  - (ii) other required data on the JOBS and WORK program reported by a State that fails the threshold standards for data quality, as defined subsequently in regulations.

## 5. Client Feedback

### Vision

*Part 5: This provision requires that States establish a process for collecting client feedback on their experience in the program as a method for improving program operations.*

*There has been little study in the past of client perceptions of the services provided through the welfare departments. However, similar to the way customers' reactions are important to the business community, understanding and managing client feedback on the services they receive provide important information on areas where program performance could improved. Additionally, it will be important to establish mechanisms to ensure feedback on the quality of services provided by public, nonprofit, and private agencies.*

### Rationale

*One aspect of reinventing government is to make public systems client- or market-driven. In a time-limited cash assistance program, providing participants with quality services and opportunities through which to enhance their human capital and improve their chances in the labor market seems essential. Obtaining feedback directly from the "customers" is one way of helping program managers ensure that they provide participants what is needed.*

### Specifications

- (a) Each State shall establish methods for obtaining, on a regular basis, information from individuals and employers who have received services through the JOBS and/or WORK program regarding the effectiveness and quality of such services. Such methods may include the use of surveys, interviews, and focus groups.
- (b) Each State agency shall analyze the customer service information on a regular basis and provide a summary of such information for use in improving the administration of the programs.

## 6. Expanded Mission for Quality Control System

### Vision

*Part 6: This provision provides the Secretary with the authority to review and modify the Quality Control system as needed and sets up some procedural guidelines for identifying the needed changes and making those changes.*

*The following language allows the Secretary to build on the current payment accuracy Quality Control system to a incorporate a broader system focused on the performance standards established in statute or by regulation and to ensure the efficient and effective operation of the JOBS/WORK/Time Limited Assistance program. Payment accuracy will be retained but as one element in a broader performance measurement role for the QC system.*

### Rationale

*Operating a performance driven accountability system requires resources. Until the new system is fully developed, it will be difficult to estimate what those resource requirements will be. Some of those resources must come from the existing QC system, necessitating changes in that system. The Secretary must have authority to make those changes in a way that does not sacrifice the ability to ensure the integrity and accuracy of income maintenance payments.*

### Specifications

- (a) The Secretary shall build on the current QC system to establish procedures for determining, with respect to each State, the extent to which any and all performance standards established by statute or regulation are being met. The Secretary shall modify the scope of the current QC system as deemed necessary to accommodate the review of the additional data elements and new performance measures and standards and shall report the modifications to Congress.
- (b) To this end, the Social Security Act will be amended to expand the purpose of the QC system to include: improving the accuracy of benefit and wage payments in the AFDC and WORK program, assessing the quality of State-reported data, ensuring the accuracy of State reporting of JOBS/WORK data required under this act, ensuring that other performance standards are met, and fulfilling other appropriate functions of a performance measurement system.
- (c) The Secretary shall designate additional data elements to be collected in a QC review sample to fulfill the needs of a performance measures system (pursuant to section 487 as amended under this part), shall amend case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of program performance identified elsewhere in this section, and may redefine what is counted as an erroneous payment in the QC system.
- (d) States shall conduct periodic, internal audits of their JOBS and WORK processes to ensure the accuracy of reported data and annual audits to establish accuracy rates. The Federal government would specify the minimum sample sizes to achieve 90 or 95 percent confidence at the lower limit (the method generally used by OIG). States would also be permitted to use current QC resources to conduct special studies to test and improve the current system.
- (e) The Secretary shall, after consulting with the States and securing input from knowledgeable sources, publish regulations regarding changes in the design and administration of existing QC functions as well as enhancements to that system. These proposed changes will be published no later than 6 months after enactment of this Bill.

## INFORMATION SYSTEMS AND INFRASTRUCTURE [Title IV]

### Current Law and Background

In the late 1970s, the Federal government decided to improve the administration of welfare programs through the use of computerized information systems. The Congress enacted PL 96-265 and subsequent legislation to grant incentive funding to encourage the development of automated systems.

In 1981, the AFDC program released the Family Assistance Management Information System (FAMIS) specifications and updated them in 1983. In 1988, the Food Stamp Program (FSP) released similar guidelines in regulations and updated them in 1992. Incentive funding is also available for statewide, Child Support Enforcement (CSE) systems.

A recent GAO report indicated that, in the previous 10 years the Federal government had spent nearly \$900 million in the development and operation of AFDC and FSP automated systems alone. In the Omnibus Budget Reconciliation Act of 1993, the Congress repealed enhanced funding for AFDC and FSP effective April 1, 1994.

An emerging priority of Federal funding agencies has been to encourage States to implement more cost-effective systems which integrate service delivery at the local level. This has enabled many States to begin using combined application forms for multiple programs (including AFDC, FSP, and Medicaid) and a combined interview to determine eligibility for the various programs. Consequently, with systems support, a single eligibility worker can process an application for several programs at the same time.

Another priority is the development of electronic transfer of funds or Electronic Benefit Transfer (EBT) technology to deliver benefits. This technology allows recipients to use a debit card, similar to a bank card, at retail food stores and automated teller machines (ATMs) to access their benefit accounts. Plans to expand the use of EBT systems are mentioned in the Vice President's National Performance Review.

Under current law and regulations, States and the Federal government have developed elaborate computer management information systems for financial management and benefit delivery, program operations, and quality control. Some programs, such as Child Support Enforcement, are in the midst of large-scale (and long-term) computer system change, while others, such as AFDC (with its FAMIS systems), are nearing completion of a development cycle.

Both FAMIS and Child Support Enforcement Systems (CSES) have been funded under an enhanced funding (90 percent) match. Partly as a result of this incentive funding, many States have integrated, automated, income maintenance systems which assist caseworkers in determining eligibility, maintaining and tracking case status, and reporting management information to the State and Federal governments.

Other essential welfare programs, namely JOBS and child care, have limited and fragmented automated systems. For the most part, States could fund parts of these systems at the 50 percent match rate. States report that administrative funds have not been available to fully automate and interface JOBS and Child Care with other programs within the State.

Many of these systems have serious limitations: limited flexibility, lack of interactive access, limited ability to exchange data electronically, etc. Even the most sophisticated systems fall short of the goal of allowing State agencies to use technology to:

- Eliminate the need for clients to access different entry points before they receive services;
- Eliminate the need for agency workers (and clients) to encounter and understand a wide variety of complex rules and procedures;
- Share fully computer data with programs within the State and among States; and
- Provide the kind of case tracking and management that will be needed for a time-limited welfare system.

### Vision and Rationale

Computer and information technology solutions will support welfare reform by providing new automated screening and intake processes, eligibility decision-making tools, and benefit delivery techniques. Application of modern technologies such as expert systems, relational databases, voice recognition units, and high performance computer networks, will help empower families and individuals seeking assistance. At the same time, these technologies will assist in reducing fraud and abuse so that Federal and State benefits are available to those who are in need.

### State-Level Systems and National Clearinghouse

To achieve this vision, we are proposing an information infrastructure which allows, at the State level, the integration and interfacing of multiple systems, for example, AFDC, food stamps, work programs, child care, Child Support Enforcement (CSE), and others. The Federal Government, in partnership with the States, or groups of States in partnership with the Federal Government, may develop model systems that perform these functions or subsets of these functions.

To support the broader information needs, the new information infrastructure needs to include, on the one hand, a national data "clearinghouse" to coordinate data exchange and for other purposes and, on the other, enhanced State and local information processing systems to improve management and delivery of services.

Enhanced State Systems. At the State and local level, the systems infrastructure would include automated subsystems for intake, eligibility determination, assessment, and referral; case management and service delivery; and benefit, payment, and reporting. The infrastructure would consist of new systems components integrated with existing systems or with somewhat enhanced existing systems. Variations in existing automated systems would make it unreasonable to try to standardize these systems. Rather, we need linkages that allow for the accurate exchange of data between systems.

By linking the various programs and systems, States would be able to provide integrated services and/or benefits to families and individuals "at-risk" of needing financial assistance, those receiving assistance, and those transitioning from public assistance program to self-sufficiency. As part of this automation effort, enhanced funding will be offered as an incentive for States to develop and implement statewide, automated systems for JOBS/WORK management and monitoring, and to enable seamless services for child care. Such an automated system infrastructure would enable States to provide greater support to families who might otherwise dissolve, as well as to parents who may, because of unmet needs, be forced to terminate employment or training opportunities.

In addition, as Electronic Benefit Transfer (EBT) and Electronic Funds Transfer (EFT) become more widespread, they would be used for other programs, such as child care reporting and payments, and reporting of JOBS participation. As an example, a JOBS participant could be required to self-report

either through a touch-tone phone that connects to a Voice Recognition Unit (VRU) or through the use of plastic card technology.

Enhanced Detection of Fraud and Abuse. For detection and analysis of fraud and abuse, computer matching of records and sharing of data among State programs and at a national level would be increased. For example, the child support information needs for establishing an order or in review and modification would be extremely valuable for access by the AFDC agency, after the agency has performed prospective eligibility determinations, but before benefits are granted. In addition, the National Clearinghouse would be extremely helpful in ensuring that an individual does not obtain AFDC beyond the time limit, does not receive benefits in more than one location or for children claimed by another family, or fails to report employment.

Data and Reporting on Program Operations and Clients. Current methods for data gathering and reporting requirements on program operations and clients could be reduced. Many of the current data and reporting requirements will be superseded by new ones, but in any case, many current items are of low data quality or of little interest. Current requirements will be re-examined.

National Clearinghouse. The National Clearinghouse will be a collection of abbreviated case and other data that "points" to where detailed case data resides and provides the minimum information for implementing key program features. Described in detail under the Child Support Enforcement section, this Clearinghouse will not be a Federal data system that performs individual case activities. While information will be coming to and from the Clearinghouse, it will contain limited data -- States will retain overall processing responsibility.

The Clearinghouse will maintain at least the following data registries:

- The National New Hire Registry will maintain employment data for individuals, including new hire information.
- The National Locate Registry will enhance and subsume the current Federal Parent Locator Service (FPLS) functions.
- The National Child Support Registry will contain data on all non-custodial parents who have support orders.
- The National Welfare Receipt Registry will contain data to operate a time-limited assistance program, such as the beginning and ending dates of welfare receipt, participation in various work programs, and the name of the State providing benefits.

**A. NATIONAL WELFARE RECEIPT REGISTRY**

- (a) As part of the National Clearinghouse, the Secretary of DHHS will establish and operate a National Welfare Receipt Registry to assist in operating a national time-limited assistance "clock".
- (b) The Clearinghouse, described more fully in the section on Information Systems for the Child Support Enforcement Program, will contain four Registries including the National Welfare Receipt Registry. At a minimum, the Welfare Receipt Registry will assist States in calculating the remaining months an individual may be eligible to receive benefits and reduce fraud and abuse.
- (c) The National Welfare Receipt Registry will be maintained by obtaining electronically from each State IV-A agency information on individuals receiving benefits. Upon request, the Clearinghouse will send electronically information to the State agency.
- (d) The information to be exchanged is as follows:
  - (i) Information to be sent to the Clearinghouse includes identification information, such as the names and Social Security Numbers of members of the family; the dates an individual went on and off assistance; participation information for AFDC, JOBS and WORK programs; information on extensions of time-limits and sanctions for non-compliance for these and other programs; as well as other information as determined necessary by the Secretary.
  - (ii) Information to be received from the Clearinghouse includes whether the applicant has been reported to have received assistance and, if so, when and in which State(s); whether the Social Security Numbers supplied are valid; whether the applicant is contained in the New Hire Registry as being recently employed; and other information as determined by the Secretary.
- (e) Information Discrepancies: If an information discrepancy exists between the information the client presents to the State agency and the information in the Clearinghouse, the Secretary will assist in the resolution by verifying that the data contained in the Registry reflects the information contained in the State agency records where the individual had previous assistance, correcting the Clearinghouse information if necessary, and reporting the updated information to the requesting State.
- (f) The States involved must take appropriate actions to resolve the discrepancy in accordance with normal due process requirements and must submit corrected information to the Clearinghouse when the discrepancy is resolved.

**B. STATE TRANSITIONAL ASSISTANCE SUPPORT INFORMATION SYSTEM**

- (a) The State agency, in order to assist in the administration of time-limited welfare, will establish and operate a statewide, automated, Transitional Assistance Support Information System. This system will serve to significantly improve the effectiveness and efficiency of State systems information infrastructures for the management, monitoring, and reporting on clients as they work towards independence and self sufficiency. The State may receive

enhanced funding for these changes under specific approaches approved by DHHS and described below.

- (b) The minimum capabilities of the State system include:
  - (i) Exchanging information as described above in A(d) in a standard, electronic format with the National Clearinghouse;
  - (ii) Querying electronically the National Welfare Receipt Registry in the National Clearinghouse before granting assistance;
  - (iii) Using the information received from the Clearinghouse in the determination of eligibility and time period for which assistance may be granted;
  - (iv) Reporting corrected or updated information to the Registry; and
  - (v) Meeting current statutory requirements for security and privacy.
- (c) Alternative Interim Method: The Secretary may approve an alternative interim method if the State demonstrates that the alternative will be effective in reporting, receiving, and using transitional assistance information and the State has an approved Advanced Planning Document for the Automated Data Processing System that meets requirements in the proposed statute.
- (d) The State may also augment the minimum system described above in specific ways and receive enhanced match for development costs under certain conditions. (The specific conditions are described in a later section.) Under this augmented system, clients will receive considerably enhanced service responsiveness through prescreening to match available services to individuals and determine the required qualifying and verification information needed for each service.

## C. STATE AUTOMATED SYSTEMS

- (a) As part of building better automated systems, States will be offered enhanced funding if they take one of two strategies to automation projects. That is, to economically and efficiently develop and implement automated systems in support of AFDC, child care, and JOBS/WORK programs, the Secretary will, as a condition of enhanced funding, require States to develop and use model systems developed in partnership with the Federal Government and other States under one of two approaches.

### I. Federally Led and Sponsored Model Systems, in Partnership with State Agencies

Under this approach, the Department in partnership with the States will design and develop model automated support and case management information systems that assist the States in managing, controlling, accounting for, and monitoring the factors of the State plans for AFDC, child care, and JOBS/WORK programs as well as providing security safeguards. These model systems are described below:

- (a) Transitional Assistance Support Information System: This model system will provide statewide, automated, procedures and processes to meet both the minimum requirements described above plus additional functions. The additional functions include at least: performing intake and referral; monitoring and reporting against some performance measures; exchanging information on-line with the Clearinghouse; and exchanging data with other automated case management and information systems.
- (b) Child Care Case Management Information System: This model system will provide statewide, automated, procedures and processes to achieve seamless child care delivery, including all child care programs of the State. This system will assist the State in administration of child care program(s) and to manage the non-service related CCDBG funds. The functions will meet both the minimum requirements described above plus additional functions which will include, at least, the ability to: identify families and children in need of child care, establish eligibility for child care, and determine funding source(s); plan and monitor services, determine payments, and update and maintain the family and child care eligibility status for child care; maintain and monitor necessary provider information; process payments and meet other fiscal needs for the management of child care program(s); produce reports required by Federal and State directives; monitor and report performance against performance standards; and electronically exchange information with other automated case management systems and with the statewide automated transitional assistance support system.
- (c) JOBS/WORK Case Management Information System: This model system will provide statewide, automated, procedures and processes to control, account for, and monitor all factors of the JOBS and WORK programs and support both management and administrative activities of the programs. These functions will meet both the minimum requirements described above plus additional functions including the capability to: assess a participant's service needs; develop an employability plan; arrange, coordinate, and manage the services or resources needed for the plan; track and monitor ongoing program participation and attendance; exchange information electronically with other programs; and provide performance and assessment information to the Secretary.

2. Multi-State Collaborative Projects, State Lead with Federal Partnership

Under this approach, the Department will assist and support State IV-A agencies, or the State's designated contracted agency (for child care or JOBS), in multi-State collaborative projects for purposes of designing and developing automated system models and in developing enhancements to existing systems as follows:

- (a) Transitional Assistance Support System: In addition to meeting the Federally-sponsored model system functional specifications described above, States may, in collaborative efforts, augment their systems to include automation of additional functions as follows: determining eligibility; improving government assistance standards; performing case maintenance and management functions; calculating, managing, and reconciling payments to eligible recipients; providing for processes and procedures to detect and prevent fraud and abuse; and producing reports.

- (b) Child Care and JOBS/WORK Case Management Information Systems: States may, in collaborative efforts, design, develop, and implement automated information systems that meet the model functional specifications of Child Care and JOBS/WORK described in the Federally-sponsored model approach.

**D. FEDERAL FUNDING FOR NATIONAL WELFARE RECEIPT REGISTRY, MODEL STATE SYSTEMS TO SUPPORT STATE ACTIVITIES, AND TECHNICAL ASSISTANCE AND TRAINING**

- (a) \$6 million will be need to establish the National Welfare Receipt Registry in Fiscal Year 1995 and \$4 million to operate the Registry for each of fiscal years 1996 through 1999; \$7.5 million will be needed to develop the model systems for each of fiscal years 1995 and 1996; and \$1 million will be needed to provide technical assistance and training to States for each of fiscal years 1995 through 1999.

**E. FEDERAL FUNDING OF STATE SYSTEMS**

- (a) Under certain conditions, States may claim Federal Financial Participation (FFP) for the costs to establish and operate automated systems described above. Two match rates will be available.
- (b) Enhanced Match. States are eligible for enhanced match (80 percent FFP) for up to 5 years after enactment for costs incurred in developing and implementing automated systems described above, including the costs of computer hardware, on the condition that the approach to system design, development, and implementation meets one of the two approaches:
1. Federally Sponsored Model: The State adapts and implements a model/prototype system developed by the Secretary in accordance with the functional specification described in that section, or
  2. Multi-State Collaborative Project: The State, through a collaborative multi-State consortium, jointly designs, develops, and/or implements, a system or subsystems in accordance with the functional conditions and specifications described in that section.
- (c) The Federal portion of the enhanced match will be limited to \$800 million and will be available over a five year period State-by-State in accordance with a formula that takes into consideration State program caseload, existing level of automation and performance and progress against an approved advance planning document. The Secretary will develop regulations for the definition and implementation of these funding provisions.
- (d) Exception for Adaptation of Existing System to Meet Minimum Requirements: If a State demonstrates to the Secretary that modifications to an existing system meet the minimum requirements of a Transitional Assistance Support System as described in that section and meet certain additional conditions, the Secretary may grant an exception to the enhanced funding requirements. The additional conditions are that the State requires limited enhancements to an existing system and the State demonstrates that it would be more cost-effective to proceed independently or with custom modifications.
- (e) Regular Match: States will receive 50 percent FFP for operational costs and for costs they incur if they do not follow the enhanced match provisions described above and for systems features beyond those provided above.

## F. ADDITIONAL FRAUD AND ABUSE PROVISIONS

### Vision

*Under this proposal, statutory provisions will require that States and specific Federal agencies utilize the information for purposes of reducing waste, fraud, and abuse. In order to ensure that Federal and State agencies implement and utilize the prescribed systems effectively for these purposes the following provisions apply. Federal and State expenditures for specific administrative costs will be reduced if – despite full implementation and use of the systems – actual savings from anti-fraud provisions do not meet anticipated savings. This provision will ensure that Federal and State agencies have a stake in the successful implementation and operation of information systems for anti-fraud and abuse purposes.*

### Specifications

- (a) The Department of HHS will certify that the systems associated with the National New Hire Registry, the National Child Support Registry, and the National Welfare Receipt Registry are operational.
- (b) For the purpose of reducing waste, fraud and abuse, the Office of Management and Budget (OMB) must certify that required Federal agencies have implemented and utilized the information fully to utilize information from these data systems.
- (c) If OMB, in consultation with the Secretary of HHS, certifies that actual savings as a result of increased Federal and State activities of anti-fraud provisions are less than \$290 million over five years (including savings as a result of Federal agencies fully utilizing the information) the following expenditure shall be reduced to make up the short-fall (*This provision shall apply only if all provisions specified in (a) and (b) are fully met*):
  - (i) The 2% set-aside for technical assistance, research and demonstrations (as specified in the TECHNICAL ASSISTANCE, RESEARCH AND DEMONSTRATION section) and the 1% set-aside for training, technical assistance, research, and demonstrations (as specified in the CHILD SUPPORT ENFORCEMENT section) shall be reduced by an amount equal to the difference or up to the amount of the set-aside.
  - (ii) If the shortfall in savings is still greater than in (i), additional funds shall be reduced via the following mechanism: States that fail to implement the improved verification data source will receive 3% less in IV-A administrative matching funds.
- (d) This provision shall be assessed in FY 1998. Penalties, if applicable, will be applied to FY 1999 funding, and every year thereafter.
- (e) This provision shall expire at the close of FY 2004.

## TECHNICAL ASSISTANCE, RESEARCH, DEMONSTRATIONS, AND EVALUATION [Title IV]

### A. TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION

#### 1. Authority to Tap JOBS/WORK and Child Care Funds For Research, Demonstrations, Evaluation and Technical Assistance Purposes

##### Current Law

*There are a variety of ways that funds are set aside for evaluation oversight and technical assistance support to programs. The Family Support Act, for example, authorizes specific amounts for implementation and effectiveness studies of the JOBS Program. Under the Head Start Act, 13 percent of annual appropriations are reserved by the Secretary for a broad range of uses including training, technical assistance and evaluation. The Secretary of HHS, at her discretion, sets aside 1% of Public Health program funding for evaluation of its programs.*

##### Vision

*Welfare reform seeks nothing less than a change in the "culture" of the welfare system. This necessitates making major changes in a system that has primarily been focused on issuing checks. Now we will be expecting States to change individual behavior and their own institutions so that welfare recipients will be moved into mainstream society. This will not be done easily. We see a major role for evaluation, technical assistance and information sharing. Initially, States will require considerable assistance as they design and implement the changes required under this legislation. Then, as one State or locality finds strategies that work, those lessons ought to be widely shared with others. One of the elements critical to this reform effort has been the lessons learned from the careful evaluations done of earlier programs. Those lessons and the feedback secured during the implementation of these reforms will be used in a formative sense and will guide continuing innovation into the future. We propose reserving 2% of the total annual capped entitlement funding for JOBS and At-Risk Child Care in FY 1996, FY 1997, and FY 1998 and 1% of the JOBS, At-Risk Child Care and WORK annual capped entitlement in fiscal years thereafter for research, demonstrations, evaluation, and technical assistance, with a significant amount reserved for child care. We seek to evaluate demonstrations in a number of different areas. Please see the sections on MAKE WORK PAY, CHILD SUPPORT ENFORCEMENT, and PREVENT PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY.*

##### Rationale

*Sufficient funds should be available to ensure that the Department(s) can provide adequate levels of technical assistance to States, oversee State implementation of welfare reform, and carry out other supportive research and training activities. Tying funds to a percentage of the overall program dollars ensures that as the program grows, funds for research, evaluation and technical assistance also grow.*

##### Specifications

- (a) Reserve for the Secretary from amounts authorized for the capped JOBS, WORK and At-Risk Child Care funding, two percent of JOBS and child care funds in Fiscal Years 1996 through 1998, and one percent of JOBS, At-Risk Child Care, and WORK for each fiscal year thereafter for expenditures for research, evaluation, the provision of technical assistance to the States and to carry out research, evaluations, and demonstrations as described below.

Technical assistance is defined broadly to include training, "hands-on" consultation to States requesting assistance, the transferring of "best practices" from one State to another, etc.

- (b) To the extent that these issues can be researched in a methodologically sound way, the Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of Education, shall conduct the following evaluation studies of time-limited JOBS followed by WORK:
- (i) A two-phase implementation study that describes:
    - How States and localities initially responded to new policies, implemented the new program, the obstacles and barriers encountered, institutional arrangements entered into, and recommendations;
    - How States and localities subsequently performed as their programs matured including program design, services provided, operating procedures, funding levels, participation rates and recommendations. The study will also consider the effects on State and local administration of welfare programs including management systems, staffing structure, and "culture."
  - (ii) A study of the effectiveness of a time-limited assistance program followed by work in helping participants achieve self-sufficiency and the corresponding effect on unemployment rates, reduction of welfare dependency and teen pregnancy, and the effects on income levels, family structure, and children's well-being.
  - (iii) A comprehensive national study of the WORK program after it has been in effect for two years to measure success its success in assisting participants to obtain unsubsidized employment and to evaluate the skill levels and barriers to participants who were unable to obtain unsubsidized jobs.

## B. DEMONSTRATIONS

1. Authority to Initiate Major Demonstrations and Pilot Programs to Improve the Effectiveness and Efficiency of the Reformed Welfare System

### Current Law

*The Social Security Act authorizes the Secretary to conduct demonstrations. Many States operate demonstration programs with strong evaluation components that have helped shape public policy.*

### Vision

*We propose key demonstrations in areas where additional feedback is required about the cost, feasibility, and/or effectiveness is necessary before national policy is determined. In each area, we propose both a set of policies for immediate implementation and a set of demonstrations designed to explore ideas for still bolder innovation in the future. In addition, we would encourage States, Indian tribes, and Alaskan Native organizations to develop their own demonstrations. In some cases we would provide additional Federal resources. Lessons from past demonstrations have been central to both the development of the Family Support Act and to this plan.*

### Specifications

- (a) The Secretary of HHS shall have the authority to approve and conduct the following demonstrations, which will be funded out of the funds allocated to technical assistance, research, demonstrations, and evaluation (as discussed in detail below):

2. Demonstrations to Encourage Placement During Participation in the JOBS Program

### Current Law

*There are no provisions in current law similar to what is proposed under this section.*

### Vision

*One of the explicit goals of welfare reform is to transform the welfare system (and the JOBS program) into one which focuses from the very first day on helping people to get and hold jobs. To achieve this, we will fund demonstration programs that focus on enhancing job placements. We envision two strategies, as specified below.*

### Rationale

*A good JOBS program balances the need to communicate to those entering the welfare system that AFDC is a temporary support system by moving recipients quickly into the labor market while remaining sensitive to the fact that all recipients are not competitive in that market. We are changing the culture of welfare to get out of the business of writing checks and into the business of helping people find and keep jobs. We are changing the incentives in the welfare system to emphasize long-term placement in the workforce. We want to experiment with a number of new approaches that will spur caseworkers, clients, and service providers to help people get off welfare for good. We need more information about how to set up rewards that will reflect the new "mission" of the welfare system.*

### Specifications

- (a) Placement Bonuses: No more than five demonstration grants would be available for programs that use placement bonuses to reward agencies or caseworkers who are particularly good at placing JOBS participants in private sector jobs. The emphasis will be on securing long-term placements in the labor market and on finding ways to place medium and long-term recipients.
- (b) Placement Firms: No more than five demonstration grants would be available to States to work with private not-for-profit and for-profit organizations. Services that the organization will deliver, such as work preparation, placement services, and follow-up services will be specified. Performance standards will specify the basis on which the organizations will be paid. These performance standards would be based on placement and retention measures.
- (c) The Secretary shall evaluate the effectiveness of such programs, preferably using random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

3. Demonstrations to Develop Work-for-Wages Programs Outside the AFDC System

Vision

*States are encouraged to experiment with approaches to designing and administering the WORK program outside of the AFDC system. The Secretary may authorize up to 5 demonstration projects to assess the feasibility and effectiveness of WORK programs that are administered outside of the AFDC system. These demonstrations will be rigorously evaluated.*

Rationale

*It is not clear that the welfare system will be the most appropriate agency to run an employment based system like the WORK program in all States. In some cases, state-level Labor Department entities, non-profit, or proprietary agencies may have a comparative advantage. Even if a comparative advantage does lie with an organization independent of the welfare system, questions remain. For example, it is not apparent that the required ongoing communication between the agencies running the WORK program and the agency issuing supplemental income support checks (and retaining responsibility for other residual welfare functions) can be maintained. This, and other management uncertainties, must be resolved through demonstration programs.*

Specifications

- (a) Up to 5 local demonstration projects to test the development and implementation of WORK programs administratively located outside of the AFDC system will be conducted.
- (b) The Secretary shall conduct a rigorous evaluation, preferably using a random assignment to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.
- (c) All individuals who exhaust their transitional assistance must be eligible to apply to the WORK program either after their initial spell on welfare or if they leave JOBS or WORK and subsequently reapply for assistance and have no time left. States may not deny admission into WORK for any reasons other than those discussed under the section on sanction policy.
- (d) States must close AFDC cases when recipients reach the time limit. WORK programs under this subsection may only pay participants for performance of some activity.
- (e) States may develop a system of compensation that mixes wages and WORK stipends. States must develop a system that ensures that WORK participants who comply fully with the program's rules are receiving income at least equal to what they would have received on AFDC plus the work disregard. States shall have flexibility on this criteria in the interest of administrative simplicity but the income from full compliance in WORK must exceed income on AFDC for a similarly situated family.
- (f) States will be allowed to pay participants WORK stipends when they are not in a WORK assignment as compensation for a range of activities to be designated by the state, including job search, job clubs, and interim community service assignments. States will have flexibility in designing the stipend system, but it will have to be a pay-for-activity system.

- (g) States would be allowed to develop a system of wage supplementation. WORK stipends could be provided to part-time workers either in unsubsidized jobs or in the WORK program. States would be encouraged to develop a simple system of supplements.
- (h) Eligibility for the supplement would be contingent on satisfactory participation in WORK.

#### 4. WORK Support Agency Demonstrations

##### Current Law

*At State option, Federal financial participation is available for JOBS activities and services provided for certain periods to an individual who has been a JOBS participant but who loses eligibility for AFDC. These activities and periods are: 1) case management activities and supportive services for up to 90 days from the date the individual loses eligibility for AFDC; and 2) JOBS component activities for the duration of the activity if funds for the activity are obligated or expended before the individual loses eligibility for AFDC. (45 CFR 250.73) In addition, the State agency may provide, pay for, or reimburse one-time work-related expenses which it determines are necessary for an applicant or recipient to accept or maintain employment. (45 CFR 255.2)*

##### Vision

*In order to learn about the effects of work support strategies, we propose demonstration programs to test different approaches. The goal is to increase employment retention and reduce welfare recidivism by helping those individuals who become employed keep their jobs and those who lose their jobs to regain employment quickly. Case managers will maintain contact with and offer assistance to current or former AFDC recipients who obtain employment and provide direct assistance to aid them in employment retention or to help find a subsequent job. Payments to help meet the costs of certain employment-related needs may also be provided if determined necessary for job acceptance or retention, or reemployment.*

*States might establish work support agencies with distinctly different responsibilities than IV-A agencies and possibly housed separately from the local IV-A agencies to provide centralized services specifically to working families. The Work Support agencies could be administered, for example, by the State employment or labor departments; by Community Action Agencies, or a One-Stop Shopping Center.*

*The work support offices might provide food stamps, child care, advance EITC payments, and possibly health insurance subsidies to eligible low-income working families, or (at local discretion) families suffering a temporary labor market disruption. Employment-related services such as career counseling, assistance with updating resumes and filling out job applications would also be made available specifically to individuals who had left AFDC for work through the work support office. Services which might also be included are time and money management, family issues, workplace rules, establishing ongoing relationships with employers, providing mediation between employer and employee, assisting with application for the EITC, making referrals to other community services, providing or arranging for supportive services needed for employment retention or re-employment, and providing for job referral or placement assistance if initial jobs are lost. The supportive services which can be provided to aid job retention may include: occupational license, certification, or test fees, tool/equipment expenses, clothing, uniforms, or safety equipment costs, driver's license fees, motor vehicle maintenance, repair, insurance or license costs, other transportation expenses, moving expenses (related to accepting employment), emergency child care expenses, health-related expenses not covered by Medicaid, short-term mental health expenses, and family counseling.*

### Rationale

*A significant proportion of new entrants will move between States of dependency and non-dependency. Some 70 percent of new entrants exit in two years, about one-half of these for work. But within five years, some 70 percent of those will return. A similar picture is found for those in the secondary labor market. Job transitions and disruptions are very common, even within brief time periods. Many of these people do not have sufficient work histories to qualify for benefits under the Unemployment Insurance system. The primary recourse available upon a job loss is the welfare system.*

*Our welfare and JOBS systems are geared toward graduations; treating people and moving them on. We now assume that even those with high levels of human capital may have to make seven or eight reinvestments in training and new skill/technology acquisitions over the course of a lifetime. We must begin to work on developing a similar perspective and supportive systems for low-wage workers and those who must, on occasion, receive income assistance for their families.*

*The participating State would be responsible for the design of the work support agency, including the administrative structure and the menu of services, but would have to receive approval from the appropriate departments (in most cases Agriculture, Health and Human Services and Treasury).*

### Specifications

- (a) A separate authority under Title IV of the Social Security Act would be established whereby a designated number of entities chosen by the Secretary, in consultation with the Secretary of Labor, Agriculture, and Treasury, would be entitled to demonstration grants to operate a Work Support Agency to support individuals who have left AFDC for work.
- (b) Up to five demonstration projects will be funded.
- (c) The activities under the demonstration would be focused on providing coordinated employment-related services. Grantees would be given great flexibility to design programs to help former AFDC recipients retain employment.

### 5. Demonstration Grants for Innovative Paternity and Parenting Initiatives

#### Vision

*This proposal would focus on helping fathers (primarily poor, young, non-marital fathers) understand and accept their responsibilities to nurture and support their children. Building on programs which seek to enhance the well-being of children, this proposal would facilitate the development of parenting components aimed specifically at fathers whose participation in the lives of their children is often ignored or even unintentionally discouraged.*

#### Rationale

*There is considerable evidence that increased poverty is not the only adverse affect on children of fatherless families. Fathers have an important role to play in fostering self-esteem and self-control in children as well as increasing and promoting the career aspirations of both sons and daughters. Some clinical researchers and social commentators believe that much of the increase in violent behavior among teenage boys is at least in part due to the lack of positive male role-models and supportive fathering in many communities. But good fathering is especially difficult for the many men*

who themselves belong to a second and third generation of "fatherless" families or whose own role models for parenting were abusive or neglectful.

### Specifications

- (a) Demonstration grants will be made available to States, Indian tribes, and/or community based organizations to develop and implement non-custodial parent (fathers) components for existing programs for high risk families (e.g. Head Start, Even Start, Healthy Start, Family Preservation, 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.
- (b) Grants must last three years, have an evaluation component, preferably using a random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

### 6. Section 1115 Waivers

#### Current Law

*Section 1115(c)(3) of the Social Security Act restricts State waivers which can be granted under the child support program to those that would not increase the Federal cost of the AFDC program. In all other cases, States can offset increased costs in one program (such as increased expenditures for JOBS) with savings in other areas (such as AFDC and Medicaid). In child support, however, savings generated from non-IV-A programs cannot be used to cover IV-A costs resulting from IV-D waivers. The within-AFDC cost neutrality provisions for the child support program discourages States from looking at IV-D as part of their total welfare reform strategy and greatly restricts their abilities to design and implement child support demonstrations of interest and significance.*

#### Specification

- (a) Increase States' ability to test innovative IV-D and non-custodial parent programs. Give them the same degree of flexibility to offset AFDC costs resulting from demonstrations involving child support that now exists in the other programs. In addition, give States the authority to value the worth of work activities that non-custodial fathers do to reduce their AFDC debts and child support arrearages.

## PREVENT TEEN PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY [Title V]

### A. NATIONAL TEEN PREGNANCY PREVENTION INITIATIVE

#### 1. Teen Pregnancy Prevention Grants and Establishment of a National Clearinghouse on Teen Pregnancy

##### Current Law

*There are numerous Federal programs that address the issue of teen pregnancy prevention, including repeat pregnancies. Some of these programs focus specifically on teen pregnancy, but given that the multiple problems adolescents face are often interrelated, the specific problems that other programs emphasize (e.g., alcohol and drug abuse, school drop-out) are also related to adolescent pregnancy prevention. Current federal efforts include HHS's family planning grants, maternal and child health programs, adolescent health programs, runaway and homeless youth programs, and alcohol and drug abuse prevention programs. Department of Education efforts include drug-free schools and communities programs, and postsecondary education outreach and student support services programs; and the Department of Labor efforts include New Chance, Youth Fair Chance, JTPA programs, and the Young Unwed Fathers Project. There are also programs in the Departments of Housing and Urban Development, Agriculture, Justice, Interior and Defense.*

##### Vision

*We must address the issue of births among unmarried teens. There will be a national campaign to help reduce the number of unmarried teenagers who become pregnant. This campaign will also take into account the myriad of risky behaviors that can be related to teenage pregnancy. It will strive to develop, enhance and promote youth competence, as well as foster ties to families, communities, and society.*

*The rise in births to unmarried teens over the past generation has raised the issue of teen pregnancy to enormous national significance. The number of births to unwed teen mothers increased from 92,000 in 1960 to 368,000 in 1991. Adolescents who bring children into the world face a very difficult time getting themselves out of poverty, while young people who graduate from high school and defer childbearing until they are mature, married and able to support their offspring are far more likely to get ahead. Both parents bear responsibility for providing emotional and material support for their child. The overwhelming majority of teenagers who bring children into the world are not yet equipped to fulfill this fundamental obligation. They are often unable to handle peer pressures and the risk of other activities leading to negative consequences, such as alcohol and drug abuse, delinquency and violence.*

*The non-legislative aspects of this campaign are a national mobilization of business, national and community voluntary organizations, religious institutions, schools, and the media behind a shared and urgent challenge directed by the President; the announcement of national goals to define the mission and to guide the work of the national campaign; and the establishment of a privately funded non-profit, non-partisan entity committed to the goals and mission of the national campaign. These are the essential building-blocks of a comprehensive campaign for youth balancing opportunity and responsibility across the full range of Administration youth initiatives, including Goals 2000, School-to-Work, National Service, the preventive health provisions under the Health Security Act, the after-*

*school and jobs programs included in the prevention package in the Crime Bill, as well as the prevention strategies proposed below as part of welfare reform.*

*There are two legislative aspects of this initiative. The first, addressed below, is a Teen Pregnancy Prevention Grant Program where about 1,000 schools and community-based entities would be provided flexible grants to implement promising teen pregnancy prevention strategies. Funding would be targeted to schools with the highest concentration of middle and high school age youth at-risk. The goal would be to work with youth as early as age 10 and establish continuous contact and involvement through graduation from high school. To ensure quality and establish a visible and effective presence, these programs will be supervised by professional staff and, where feasible, be supported by a team of national service participants provided by the Corporation for National and Community Service. The second, described in number 2 below, is a comprehensive services demonstration approach to enhance our learning from prevention strategies.*

### Specifications

- (a) A separate authority under the Title XX of the Social Security Act would be established for grants to promote the development, operation, expansion, and improvement of school-based and -linked adolescent pregnancy prevention programs in areas where there are high poverty rates or high rates of unmarried adolescent births.
- (b) The approved applicant shall be entitled to payment of at least \$50,000 and not more than \$400,000 each fiscal year for five years. The grant amount will be based on an assessment of the scope and quality of the proposed program and the number of children to be served by the program. The grant must be expended in the fiscal year it is awarded or in the succeeding fiscal year. At least a 20 percent non-Federal, cash or in-kind match, is required. Priority will be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant.
- (c) The grants will be jointly awarded by HHS, Education, and the Corporation for National and Community Service, in consultation with other Federal departments and agencies. The administration of the program could be delegated to another Federal entity, such as the proposed Ounce of Prevention Council or the Community Empowerment Board.
- (d) Eligible grantees are a partnership that includes a local education agency, acting on behalf of one or more schools, and one or more community-based organizations, institutions of higher education, or public or private for-profit or non-profit agencies or organizations. Existing successful programs--including those now operated by national voluntary organizations--would be encouraged to apply for funds to expand and upgrade their services. Grantees would have to be located in a school attendance area where either (1) at least 75 percent of the children are from low-income families as defined under part A of title I of the Elementary and Secondary Education Act of 1965, or (2) there are a significant number of children receiving AFDC, or (3) there is a high unmarried adolescent birth rate. Geographic distribution, including urban and rural distribution, would be taken into account in selection of grantees.
- (e) Grantees would, based on local needs, design and implement promising programs to prevent teen pregnancy through a variety of approaches. Grantees would be given a great deal of flexibility in designing their program. However, core components at each site must include:

- Curriculum and counseling designed to reach young people that address the full range of consequences of premature sexual behavior and teen pregnancy. Existing models of best practices suggest that these educational activities should focus on developing the psychology and character required for responsible behavior as well as on expanding cognitive knowledge.
- Activities designed to provide opportunities for youth at-risk to develop sustained contact with one or more volunteer or professionally trained adults to provide character development. Group coaching, individual mentoring, and a range of activities after-school, on weekends, and in the summer could be included. Such activities could also include community service by the youth themselves.

To ensure quality, programs would be coordinated by one or more professional staff. The programs, where feasible, would also utilize national service participants to engage students, parents, families, and the community in organized efforts to reduce risk-taking behaviors that may lead to adolescent pregnancy, including the delivery of services and in the coordination of during- or after-school activities. Grantees will be asked to describe the role that any National Service participants will play in the program, consistent with the National and Community Service Act of 1990.

Grantees are allowed to expand on these core components, including conducting activities as part of another youth development program.

- (f) Grantees would be asked to submit an application. The primary aspect of the application would be a plan which addresses local needs and describes (a) the measurable goals the applicant wants to achieve and how it intends to measure progress in achieving the goals; (b) curriculum and counseling and sustained adult relationships components of the program, as well as any additional components, and how they intend to implement them; and (c) how national service participants will be an integral part of the program, where feasible.

They would also be asked to provide other assurances, including--

- How the services provided are based on research of effective approaches to reducing teen pregnancy. Other risk-taking behaviors correlated with teen pregnancy should also be included.
- How both male and female teens and, where possible, out-of-school teens will be served.
- How each program would work with middle and/or high school age youth (ages 10 through 19) to establish continuous contact and involvement through graduation from high school.
- How school staff, parents, community organizations, and the teens to be served have been and will be included in the development of the application as well as the planning and implementation of the program.
- Evidence of ongoing commitment with other community institutions, such as churches, youth groups, universities, businesses, or other community, civic, and fraternal organizations.

- Coordination of their program with other Federal or federally assisted programs, State and local programs, and private activities, and how the applicants resources and services are linked and coordinated. For example, how they are coordinating State education reform efforts undertaken by the State education agency.
  - How the program plans to continue operation following completion of the grant period.
  - How funds will not supplant Federal, State, or local funds.
- (g) A grantee would be given priority if their non-Federal resources are significantly in excess of the 20 percent required or there is an increasing ratio of non-Federal resources over the length of the grant, and if they participate in other Federal and non-Federal programs.
- (h) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.
- (i) Total funding for the program is \$300 million over five years. \$20 million in FY 1995, \$40 million in FY 1996, \$60 million in FY 1997, \$80 million in FY 1998 and \$100 million in FY 1999 and each subsequent fiscal year thereafter. Up to ten percent of the funding will be set-aside for the evaluation, training, and technical assistance as well as for establishment of a National Clearinghouse on Teen Pregnancy (see j. and k. below). Since this program and the Clearinghouse is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.
- (j) A rigorous Federal evaluation of some sites would be conducted. Grantees would be asked to provide information requested for the evaluation. Training and technical assistance would also be provided to the grantees.
- (k) A National Clearinghouse on Teen Pregnancy Prevention would be established to provide communities and schools with teen pregnancy prevention programs with curricula, models, materials, training and technical assistance. This could be an existing clearinghouse or technical assistance center. It will establish an information exchange and network on promising models and rigorous evaluations.

The Clearinghouse would be a national center for the collection and dissemination of programmatic information and technical assistance that relates to teen pregnancy prevention programs. It will also look at the State of teen pregnancy prevention program development, including information on the most effective models. It would develop and sponsor training institutes and curricula for teen pregnancy prevention program staff, and develop networks of for sharing and disseminating information. The Clearinghouse could also conduct evaluations of teen pregnancy prevention programs (not limited to the grants provided in this bill).

2. Learning from Prevention Approaches through Comprehensive Services Demonstrations to Prevent Teen Pregnancy in High Risk Communities

Current Law

*There are demonstration authorities that exist to serve youth in particular areas, but most are not as comprehensive as the demonstrations described below in the scope of services for all youth and are not a saturation model.*

Vision

*Early unwed child-bearing and other problem behaviors are interrelated and strongly influenced by the general life-experiences associated with poverty. Changing the circumstances in which people live and consequently how they view themselves is needed to change the decisions young people make in regard to their lives.*

*For any effort which hopes to have results that are large enough to be meaningful, attention must be made to circumstances in which youth grow up. It should address a wide spectrum of areas associated with youth living in a healthy community: economic opportunity, safety, health, and education.*

*Particular emphasis must be paid to the delay of sexual activity and prevention of adolescent pregnancy before marriage. Programs that combine these elements have shown the most promise, especially for adolescents who are motivated to avoid pregnancy until they are married. However, for those populations where adolescent pregnancy is a symptom of deeper problems, education and contraceptive services alone will be inadequate; they must be part of a much wider spectrum of services.*

*Interventions need to enhance education, prevent drug use, link education to health and other services, and help stabilize communities and families in trouble. This would provide a sense of rationality and order in which youth can develop, make decisions, place trust in individuals and institutions serving them, and have a reasonable expectation of a long, safe, and productive life.*

*Comprehensive Demonstration Grants for Youth in High-Risk Communities of sufficient size or "critical mass" to significantly improve the day to day experiences, decisions and behaviors of youth are proposed. Services would be non-categorical, integrated and delivered with a personal dimension. They would follow a "youth development" model and would seek to assist communities as well as directly support youth and families. These demonstrations would be coordinated with other Administration activities, such as the prevention components of the Crime bill and empowerment zones, and would be part of an overall community strategy for youth.*

Specifications

- (a) A separate authority under the Title XX of the Social Security Act would be established whereby a designated number of community sites chosen by the Secretary, in consultation with the Secretaries of Education, HUD, Justice, Labor, and the Director of the Office of National Drug Control Policy, would be entitled to a demonstration grant to educate and support school-age youth (youth ages 10 through 21) in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

- (b) Funding and services provided under this demonstration do not have to achieve this goal of comprehensiveness in and of themselves. Rather, this funding can be used to provide "glue money," fill gaps in services, ensure coordination of services, and other similar activities which will help achieve the overall goal of comprehensive integrated services to youth.
- (c) Starting in FY 1995, up to seven community sites would be entitled to \$90 million over 5 years (up to \$3.6 million per site). Grantees would be required to provide a 10 percent, in cash or in-kind, match of the Federal funding. Priority would be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant. Since this program is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.
- (d) The demonstration grantee would develop a community-wide strategy to address the causes and factors of risk-taking tendencies among youth, to positively affect community norms, to increase community health and safety, and to generally improve the social environment to enhance the life choices of community youth. The strategy would be used to provide a comprehensive set of coordinated services designed to saturate the community and would include, but not be limited to, the following areas:
  - (i) Health education and access services designed to promote physical and mental well-being, delay sexual activity, and personal responsibility. These include school health services, family planning services, alcohol and drug use prevention services and referral for treatment, life skills training, and decision-making skills training.
  - (ii) Educational and employability development services designed to promote educational advancement that lead to a high school diploma or its equivalent and opportunities for high skill, high wage job attainment and productive employment, to establish a lifelong commitment to learning and achievement, and to increase self-confidence. Activities could include, but are not limited to, academic tutoring, literacy training, drop-out prevention programs, career and college counseling, mentoring programs, job skills training, apprenticeships, and part-time paid work opportunities.
  - (iii) Social support services designed to provide youth with a stable environment, continuous contact with adults, and encouragement to participate in safe and productive activities. Services could include, but are not limited to, cultural, recreational and sports activities, leadership development, peer counseling and crisis intervention, mentoring programs, parenting skills training, and family counseling.
  - (iv) Community activities designed to improve community stability, and to encourage youth to participate in community service and establish a stake in the community. Activities could include, but are not limited to, community policing, community service programs, community activities in partnership with less distressed communities, local media campaigns, and establishment of community advisory councils with youth representation.

- (v) Employment opportunity development activities designed to be coordinated with educational and employability development services, social support services, and community activities described in (ii) through (iv). Emphasis would be on the development of linkages with employers within and outside the community to help create employment opportunities and foster an understanding by community youth of the relationship between productive employment, healthy development, and sound life choices.
- (e) Sites would have to meet the following characteristics, and any others determined by the Secretary of Health and Human Services, in consultation with the other Federal agencies.
  - (i) Geographic – Communities must identify the community or communities they will target. Smaller, more focused boundaries than those required in Empowerment Zones or Youth Fair Chance will be used in order to develop a "critical mass" of services to meet the above goals. Each community must have an identifiable boundary and must be considered a community by its residents.
  - (ii) Population – Each community or group of communities have populations of approximately 20,000 to 35,000 people.
  - (iii) Poverty – The entire area must have a poverty rate of at least 20%.
- (f) Local governments (or units of local governments) and local public and private non-profit organizations could apply. Applicants would be required to supply evidence of comprehensive commitment to the project and collaboration between the community and the city and State (such as local school to work partnerships). The applicant must involve multiple elements (e.g., government, schools, churches, businesses) of the community and the State in the planning and implementation of the demonstration program. Applicants must demonstrate (1) ability to manage this major effort, (2) resources for obtaining data and maintaining accurate records, (3) how they will coordinate with other programs serving the same population, and (4) assurances that the funding provided through this program will not be used to supplant Federal funds for services and activities which promote the purposes of this program.
- (g) Applicants must define the goals intended to be accomplished under the project. They must also describe the methods to be used in measuring progress toward accomplishment of the goals and outcomes to be measured. Outcomes to be measured would include, but are not limited to, unmarried birth rates, high school graduation rates, college attendance rates, rates of alcohol and other drug use and violence reduction.
- (h) The Department will support rigorous evaluations of all demonstrations. The Federal government will also provide technical assistance to applicants throughout the life of the demonstration. These activities will be coordinated with the National Clearinghouse on Teen Pregnancy Prevention. \$10 million would be provided for these activities.
- (i) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

## B. INCENTIVES FOR RESPONSIBLE BEHAVIOR

### 1. Minor Parents Live at Home

#### Current Law

*Under Section 402(a)(43) of the Social Security Act, States have the option of requiring minor parents (those under the age of 18) to reside in their parents' household, a legal guardian or other adult relative, or reside in a foster home, maternity home or other adult supervised supportive living arrangement (with certain exceptions). Delaware, Maine, Michigan, Virgin Islands, and Puerto Rico have included this in their State plans.*

#### Vision

*By definition, minor parents are children. We believe that children should be subject to adult supervision. This proposal would require minor parents to live in an environment where they can receive the support and guidance they need. At the same time, the circumstances of each individual minor will be taken into account in making decisions about living arrangements.*

#### Specifications

- (a) All States would require minor parents to reside in their parents' household or with a legal guardian, with certain exceptions as described below. This is the same as the allowed State option under current law, except that now the provision would be a requirement in all States.
- (b) As in current law, when a minor parent lives with her parent(s), the parent(s)' income is taken into account in determining the benefit. If the minor parent lives with another responsible adult, the responsible adult's income is not taken into account. Child support would be sought in all cases.
- (c) A minor parent is an individual who (i) is under the age of 18, (ii) has never been married, and (iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid under the State plan to a pregnant woman. This is the same definition as current law.
- (d) The following exceptions (now in current law) to living with a parent or legal guardian will be maintained:
  - (i) individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;
  - (ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;
  - (iii) the State agency determines that the physical or emotional health or safety of the individual or dependent child would be jeopardized if the individual and dependent child lived in the same residence with the individual's own parent or legal guardian;
  - (iv) individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any dependent child or the individual having made application for aid to families with dependent children under the plan; or

- (v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving the requirement. (In those States that have this policy, the following are examples of what they determine to be good cause exceptions: the home is the scene of illegal activity; returning home would result in overcrowding, violation of the terms of the lease, or violation of local health and safety standards; the minor parent is actively participating in a substance abuse program which would no longer be available if she returned home; no parent or legal guardian lives in the State.)
- (e) Current law and regulation requiring that the determination of a minor parent's residency status must be made within the 45 days that all eligibility determinations are made would be maintained.
- (f) If the State determines the minor should not live with a parent or legal guardian (or the current arrangement ceases to be appropriate because circumstances change), the minor must be assisted in obtaining an appropriate supportive alternative to living independently. (The types of living arrangements that States now use or are considering include living with an adult relative, a licensed foster home, in a group home for pregnant teens or teen parents, and in an approved congregate housing facility.) If no appropriate setting is found the State must grant eligibility, but must utilize case managers to provide support for the minor.
- (g) The State would use the case management for teen parent provision (see #2 below) to make the determinations required under this provision. As described in the next proposal, these case managers would be trained appropriately and have reasonable caseloads. Determinations would be made after a full assessment of the situation, including taking into account the needs and concerns expressed by the minor.
- (h) This provision would go into effect in FY 1996.

## 2. Limiting AFDC Benefits To Additional Children Conceived While on AFDC

### Current Law

*Currently, families on welfare receive additional support whenever they have an additional child.*

### Vision

*States should be allowed to seek to reinforce parental responsibility by not increasing AFDC benefits when a child is conceived while the parent is on welfare. The message of responsibility would be further strengthened by providing the family an opportunity to earn what would have been paid in benefits.*

### Specifications

- (a) Allow States the option of limiting the increase, in full or in part, in the AFDC benefit amount when an additional child is conceived while the parent is on welfare. In order to exercise this option, the State must demonstrate that family planning services under 402(a)(15) are available and provided to all recipients who request them.

- (b) Under this option, if a parent has an additional child, the State must disregard an amount of income equal to any increase in aid that would have been paid as a result of the additional child. Types of income to be disregarded include:
  - (i) child support;
  - (ii) earned income; or
  - (iii) any other source that the State develops and is approved by the Secretary.
- (c) The provision would not be applied in the case of rape or in any other cases that the State agency finds would violate the standards of fairness and good conscience (such as where there is clear evidence that contraceptive failure occurred in a unemployed parent AFDC family).
- (d) This provision would go into effect in FY 1996.

### 3. Case Management for All Custodial Teen Parents

#### Current Law

*Section 482(b)(3) of the Social Security Act allows States to provide case management to all those participating in the JOBS program.*

#### Vision

*Frequently, it is multiple problems that lead youth to the welfare system. Their complex needs often stand in the way of their meeting educational requirements and other responsibilities. Removing these barriers to self-sufficiency can involve the confusing and difficult process of accessing multiple service systems. This proposal would provide every teen with a case manager who would help them navigate these systems and hold them accountable for their responsibilities and requirements.*

#### Specifications

- (a) Require States to provide case management services to all custodial teen parents under age 20 who are receiving AFDC.
- (b) Case management services to teen parents will include, but is not limited to:
  - (i) assisting recipients in gaining access to services, including, at a minimum, family planning, parenting education, and educational or vocational training services;
  - (ii) determining the best living situation for a minor parent, taking into account the needs and concerns expressed by the minor (see #1 above);
  - (iii) monitoring and enforcing program participation requirements (including sanctions and incentives where appropriate); and
  - (iv) providing ongoing general guidance, encouragement and support.

States must describe in their plans how they will meet these requirements.

- (c) Case managers must receive adequate training in the social service and youth development field, and States should take into account recommendations by appropriate professional organizations to carry this out. Also, the case managers must be assigned a caseload of a size that permits effective case management (adequately serves and protects teen parents and their children).
- (d) This provision would go into effect in FY 1996.

#### 4. Teen Parent Education and Parenting Activities State Option

##### Current Law

*Under Section 402(a)(19) of the Social Security Act, teen custodial parents are required to participate in the JOBS program unless they are under 16 years of age, attending school full-time, or are in the last seven months of pregnancy. Participation in the JOBS program involves an assessment of the individual, and an agreement specifying what support services the State will provide and what obligations the recipient has. For those who have not obtained a high school diploma or a GED, attendance at school can serve as their JOBS assignment. Participation in the JOBS program is contingent on the existence of such a program in the geographic vicinity of the recipients' residence.*

*In addition, under a Section 1115 waiver, States can implement programs which utilize incentives or sanctions to encourage or require teen parents on AFDC to continue their education. Two examples of States having done or planning to do this are the Learning, Earning, and Parenting Program (LEAP) in Ohio and Cal Learn in California, which is in the process of being implemented. LEAP and Cal Learn are mandatory for all pregnant and custodial teen parents who are receiving AFDC and who do not have a high school diploma or GED. Under both LEAP and Cal Learn program rules, all eligible teens are required to enroll (or remain enrolled) in and regularly attend a school or education program leading to a high school diploma or GED. These two initiatives apply only to teens who are case heads. Other States have obtained waivers to implement programs using sanctions to influence dependents to continue their education.*

##### Vision

*Teenage mothers face substantial obstacles to achieving self-sufficiency. Eighty percent of teen mothers drop out of high school and only 56 percent ever graduate. Their earning abilities are limited by lack of education and job skills. Teen parents are often not well prepared in the area of parenting. This proposal provides States with a mechanism to utilize creative approaches for encouraging and supporting youth in both their educational and parenting endeavors.*

##### Specifications

- (a) Provide States the option to use monetary incentives (which must be combined with sanctions) as inducement for pregnant teens and teen custodial parents who are receiving AFDC and who do not have a high school diploma or GED to enroll (or remain enrolled) in and regularly attend a school or education program leading to a high school diploma or GED, or a program leading to a recognized degree or skills certificate if the State determines this is most appropriate for a recipient. States may also choose to provide incentives for participation in parenting education activities. This option will operate as part of the new JOBS program, and the rules pertaining to JOBS will apply unless it is specifically stated otherwise.

(b) Each State plan must clearly define the following --

Incentives: States must define by how much benefits will be increased and what kinds of achievements will be rewarded.

Examples of incentives chosen by Ohio and California are as follows:

In Ohio's LEAP, teens who provide evidence of school enrollment receive a bonus payment of \$62. They then receive an additional \$62 in their welfare check for each month in which they meet the program's attendance requirements. For teens in a regular high school in Ohio, this means being absent no more than four times in the month, with two or fewer unexcused absences. Different attendance standards apply to part-time programs, such as Adult Basic Education (ABE) programs providing GED preparation assistance, but the same financial incentives apply.

Participants of Cal Learn will be required to present their report cards four times a year. The grant will be increased by \$100 for the month after the Cal Learn participant receives a report card with a "C" average or better. For graduating high school (or its equivalent), these teens will have their grants increased on a one time basis by \$500.

Sanctions: Sanctions under the revised JOBS program would apply unless the State proposes alternative sanctions, to be approved by the Secretary, which the State believes better achieves their objectives.

Examples of sanctions chosen by Ohio and California are as follows:

In LEAP, teens who do not attend an initial assessment interview (which commences participation in LEAP) or fail to enroll in school have \$62 deducted from their grant (i.e., the teens are "sanctioned") each month until they comply with program rules. Similarly, enrolled teens are sanctioned by \$62 for each month that they exceed the allowed number of unexcused absences. Teens who exceed the allowed number of total absences, but do not exceed the allowed number of unexcused absences receive neither a bonus nor a sanction.

In the Cal Learn program, teens who do not receive at least a "D" average or who do not submit his/her report card will have the assistance unit grant reduced over a two month period by the lesser of \$50 or the amount of the grant. This will result in a sanction of not more than \$100. Included in the sanctions will be teens that do not present their report cards because they have dropped out of school or were expelled.

Coordination: A case manager (as described in A.2) will assess each recipient's needs and arrange for appropriate services. States must describe the mechanism case managers and other service providers will use to coordinate with schools.

Eligibility: Custodial teen parents under 20 years of age and pregnant women under the age of 20 who have not received a high school diploma (or equivalent) are eligible. States may choose to include custodial pregnant teens and teen parents up to their 21st birthday.

Exemptions: Exemptions from participation will be based on the same new guidelines governing participation in JOBS and WORK, with two exceptions. First, teens will only be able to defer participation for 3 months after giving birth. Also, a disability will not allow a recipient to defer participation in high school, as schools districts are required to provide students with disabilities appropriate services. (See JOBS and WORK section of proposal for more specific details.)

State-wideness: States can limit the geographic scope of this option.

Information and Evaluation: States would be required to provide information at the Secretary's request and to cooperate in any evaluation.

- (c) Monetary incentives provided under this program would be considered AFDC.
- (d) Monetary incentives provided under this option would not be considered income in determining a family's eligibility for any other Federal or Federally-assisted program, and any other Federal or Federally-assisted program would treat any penalty imposed as if no such penalty had been applied.
- (e) This provision would go into effect in FY 1996.

## 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 paternitys 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 time-frames 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 time-frames 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 non-marital 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 submits 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, OBRA 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 time-frame, 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 time-frame, 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 State 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 time-frame 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 time-frame, 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 time-frames 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***

- (4) *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).*
- (5) *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.*
- (6) *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 parents 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, including 1099 data. Access to this information greatly enhances State enforcement efforts and the utility of the locate network. Under the proposal, the Secretary of the Treasury will explore the feasibility of simplifying access to this IRS data.

- (1) *The Secretary of the Treasury shall explore the feasibility of and, as appropriate, institute procedures whereby States can more easily 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. Time-frames, 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 (URESAs), promulgated in 1950 and changed in 1952, 1958 and 1968. Using URESAs 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 URESAs, is not widely used and limits the enforcement remedy of withholding.

Under the proposal, States will be required to adopt verbatim URESAs' 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 URESAs, 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 (URESAs) 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 refiling 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 non-home State, and*
- (ii) *an action in the home State is filed before the time has expired in the non-home 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 decision maker 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 decision maker. 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 certain other unsecured creditors; and*
  - (e) *require that the bankruptcy trustee make payments to a child support creditor from the bankruptcy State 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%/20% 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, total Federal payments to States for ADP 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 an authorization of funds of 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*

### ***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]

**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
<b>Paternity</b>	
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
<b>National Commission on Child Support Guidelines</b>	
Authorized	Oct. 1, 1994
Named by	March 1, 1995
Report due	July 1, 1997
<b>Review and Adjustment for Cases</b>	Oct. 1, 2000
<b>Distribution Changes</b>	
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
<b>Central State Registry</b>	
Automated requirements tied to current FSA/OCSE requirements	Oct. 1, 1995
Other requirements	Oct. 1, 1997
<b>Central Payment Center</b>	
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

## IMPROVING GOVERNMENT ASSISTANCE [Title VII, Title VII]

## A. RATIONALIZATION AND SIMPLIFICATION ACROSS ASSISTANCE PROGRAMS

*The rationalization and simplification of assistance programs is something of the holy grail of welfare reform—always sought, never realized. The reasons are many: different goals of different programs, varied constituencies, Departmental differences, divergent Congressional committee jurisdictions, and the inevitable creation of winners and losers from changing the status quo. Yet everyone agrees that recipients, administrators, and taxpayers are all losers from the current complexity. Below are several proposals for reform. The proposals do not make substantial changes in program structures. Rather, the proposals achieve simplification by streamlining administrative processes and by conforming program rules between the AFDC and Food Stamp programs. The proposals modify existing rules that create unnecessary complexity and confusion for program administrators and recipients. The proposal also supports the expansion of Electronic Benefits Transfer (EBT) programs for delivering Federal and State government benefits. Nationwide expansion was recommended by the Vice President's National Performance Review as a means of reducing fraud, streamlining benefit delivery, and saving taxpayers money. No legislative or regulatory provisions are included in the welfare reform proposal specific to the EBT expansion, although the two initiatives are complementary in their commitment to improve government assistance.*

## 1. RESOURCES

## (A) General

Current Law

*The Social Security Act and implementing regulations set a \$1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC. Excluded from consideration as countable resources are the home owned and occupied by the family; an automobile with a maximum equity value of \$1,500 (or a lower limit at State option); bona fide funeral agreements with a maximum equity value of \$1,500 for each family member (or lower limit set by the State); one burial plot for each family member; and real property for a period of 6 consecutive months (or 9 consecutive months at State option) which the family is making a good faith effort to sell. Under certain conditions, States may establish rules regarding transfer of resources in order to obtain or retain eligibility.*

*The Food Stamp Act and implementing regulations set a \$2,000 limit (or \$3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the program. The Act does not specify how the value of resources is to be determined, but provides for uniform national eligibility standards for income and resources. State agencies are prohibited from imposing any other standards of eligibility. Households in which each member receives AFDC, SSI, or general assistance from certain programs do not have to pass the food stamp resource eligibility test. Regulations exclude from resources the value of one burial plot per family member and the cash value of life insurance policies. Also excluded is real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. There is no specific exclusion for burial plans (funeral agreements). Any amount that can be withdrawn from a funeral contract without an obligation to repay is counted as a resource.*

*Food Stamp law prohibits the transfer of resources within the 3-month period prior to application. A household that knowingly transfers resources for the purposes of qualifying or attempting to qualify*

for food stamps shall be ineligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

### Vision

*Both the AFDC and Food Stamps programs serve similar needy populations. Yet, because the rules for treatment of both the amounts and categories of resources are different in each program, resources that meet one program's requirement can result in ineligibility under the other.*

*Both programs have substantially different rules for evaluating the resources of that needy group, forcing welfare administrators to apply different program rules to the same resources in the same family. The following legislative proposal would reduce the current administrative complexity and confusion for welfare administrators and recipients by providing uniform treatment of assets where appropriate.*

### Specifications

Require the Secretaries in both Departments to develop uniform resource exclusion policies in the following areas, by October 1, 1996:

- (a) Resource Limits: Increase the AFDC resource limit to \$2,000 (or \$3,000 for a household with a member age 60 or over) to conform to the Food Stamp resource limit.
- (b) The Secretary of HHS shall specify in regulations the valuation of an automobile.
- (c) Resource Exclusions:
  - (i) Real Property: Propose legislation to amend the Social Security Act to exclude real property which the AFDC family is making a good faith effort to sell at a reasonable price and which has not been sold, to conform to the Food Stamp policy.
  - (ii) Cash Surrender Value of Life Insurance Policies: Propose legislation to amend the Social Security Act to totally exclude the cash surrender value of life insurance policies under the AFDC program to conform to the Food Stamp policy.
  - (iii) Transfer of Resources: Propose legislation to provide that a household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for AFDC shall be ineligible for benefits for a period of up to one year from the date of discovery of the transfer. This proposal conforms to the Food Stamp policy.

### Rationale

*The administrative complexity that exists in applying certain resource requirements in the AFDC and Food Stamp programs will be greatly reduced under the proposed changes. Welfare administrators will be able to apply the same rules to the same resources for the same family. These conforming changes achieve simplification by streamlining the administrative processes in both programs.*

**(B) Asset Accumulation - Individual Development Accounts**Current Law

*The Social Security Act and implementing regulations set a \$1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC, with only limited exclusions.*

*The Food Stamp Act and implementing regulations set a \$2,000 limit (or \$3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the Program. Section 13925 of Pub. L. 103-66 of the Omnibus Budget Reconciliation Act provides that the Secretary of Agriculture shall conduct, for a period not to exceed 4 years, projects to test allowing not more than 11,000 households nationwide to accumulate up to \$10,000 each in excluded resources. These assets are for later expenditures for a purpose directly related to improving the education, training or employability (including self-employment) of household members, for the purchase of a home for the household, for a change in the household's residence, or for making major repairs to the household's home.*

Vision

*Welfare reform should include strategies to test the notion that one way out of welfare for some people is through empowering them to start their own businesses and encouraging them to save their earnings to build for the future. During the campaign, the President endorsed the idea of helping welfare recipients help themselves by proposing to increase the number of microenterprises and establish Individual Development Accounts (IDAs). These legislative proposals would promote self-sufficiency by encouraging recipients to accumulate savings, assets and start their own businesses.*

*An IDA is an optional earnings-bearing, tax-benefitted trust account in the name of one person. An IDA would be held in a licensed, federally-insured financial institution. Withdrawals can be made from the account only for qualified purposes, which include: first home purchase, post-secondary education (college/long-term training), or business development (microenterprises). There would be penalties for non-designated use of the account. Participant eligibility would be determined by the State agency using Federal guidelines. Monies placed into an IDA account by an AFDC and Food Stamp recipient would be disregarded for purposes of determining resource limits, up to \$10,000. All income placed into an IDA would be tax deferred. An individual would retain the IDA after leaving welfare, but would still be required to use the resources for specified purposes or would face penalties.*

*The tax laws will be amended to allow for the establishments of IDAs; DHHS and USDA regulations will set the limit at \$10,000; subsidized IDAs will be established on a demonstration basis; unsubsidized IDAs will also be permitted for qualified individuals not involved in a demonstration. Current recipients (and applicants with established IDAs) for both the AFDC and Food Stamp programs can establish IDAs and have their savings and interest excluded. States, at their option, could pursue this approach to promoting self-sufficiency.*

Specifications1. National Unsubsidized IDA Program

- (a) At State option, allow IDAs to be established by Federally insured financial institutions to be used exclusively to pay for post-secondary education or training expenses, first-home

purchases, or business capitalization where there is a qualified plan. Effective October 1, 1996.

- (b) Recipients of Food Stamps and AFDC are eligible for participation in the IDA program. Individuals otherwise eligible for the Earned Income Tax Credit shall be permitted to establish IDAs, but some restrictions apply (*specifically see provision (iv) below*).
- (i) Annual contributions shall not exceed the lesser of \$1,000 or 100% of all income, excluding public assistance, with a total account limit of \$10,000 per family.
  - (ii) The total amount in an IDA shall not exceed \$10,000.
  - (iii) If the accounts are established while a family is on AFDC or Food Stamps, the IDA account balance will not count against a family's resource limits. Families who leave the rolls after opening an account can continue the account. If the family re-applies for AFDC or Food Stamps at a later date, their IDA savings and interest, up to \$10,000, are excluded.
  - (iv) If an IDA-eligible individual establishes an IDA while not receiving AFDC or Food Stamps (for example, upon receiving an EITC payment under the subsidized IDA demonstration) and subsequently applies for assistance to either program, the amount in the IDA shall be applied against the resource limits for purposes of determining eligibility.
- (c) The penalty for a withdrawal from an unsubsidized IDA for purposes other than those specified will be 10 percent of the amount withdrawn that is includable in income.

2. Subsidized Individual Development Account (IDA) Demonstration

- (a) Amend the tax laws to allow States, localities, and community development financial institutions to apply to receive grants to operate 6-year IDA demonstration projects. Project grants will be awarded by the Community Development Bank and Financial Institutions Fund on a competitive basis and must be renewed annually. Authorized levels are \$10 million in fiscal year 1997 and 2002 and \$20 million for fiscal years 1998 - 2001. Effective October 1, 1996.
- (i) \$500 in initial financial assistance will be placed into accounts established for project participants who establish IDAs so banks are willing to set up the accounts. In addition, participant contributions may be subsidized in amounts ranging from \$.50 to \$4 for each \$1 deposited, not to exceed \$2,500. Total individual IDA amounts may not exceed \$10,000.
  - (ii) Eligible participants are households with: at least one member eligible for EITC, an adjusted gross income not in excess of \$18,000, and a net worth not in excess of \$20,000.
  - (iii) Grantees will maintain a reserve fund to be spent on assisting participants in achieving self-sufficiency, administering the project, and to collect evaluation information.
  - (iv) Grantees must submit annual reports on the progress of their project.

- (v) The Fund will contract for an independent evaluation of individual demonstration projects describing project features, assessing levels of self-sufficiency and benefit reduction achieved, levels of assets accumulated, and their effects.
- (vi) The penalty for a non-designated withdrawal from a subsidized IDA will be the total amount of the subsidy and 10 percent of the individual's contribution of the amount withdrawn.

### 3. Self-Employment/Microenterprise Demonstration

- (a) Through a memorandum of understanding, HHS and SBA will jointly develop and administer a minimum 5-year, self-employment/microenterprise demonstration program. Consultation with Agriculture, HUD and Labor is also required. Participants must be persons with incomes below 130 percent of poverty or persons participating in JOBS, WORK or AFDC-only, with the percentage of welfare recipients to be established by the agencies. Local intermediaries (organizations or consortium of organizations) will apply to enter into agreements to demonstrate the program. Authorized amounts shall be \$4 million for fiscal years 97 and 02 and \$8 million for fiscal years 1998 - 2001. Effective October 1, 1996.
  - (i) HHS and SBA, in consultation with public and private organizations, will identify promising program models currently used to provide self-employment and related services to low-income individuals and design a demonstration to evaluate, using a randomized experimental design, at least two types of models with contrasting levels of technical assistance. The agencies may fund up to five other projects with designs that do not lend themselves to a randomized experiment.
  - (ii) HHS and SBA may provide technical assistance, grants, loan guarantees and loans to intermediaries.
  - (iii) In selecting intermediaries, SBA and HHS will take into consideration the applicant's record of success, program design, capacity and other criteria.
  - (iv) Intermediaries must have contracts with the local JOBS agency such that JOBS and WORK program funds will be used to provide supportive services including training and technical assistance for participants who are welfare recipients.
  - (v) Preliminary and final effectiveness evaluation reports together with recommendations must be submitted to the President and Congress. A report on barriers is also required. The evaluation study shall take into consideration increase in self-sufficiency, reduced costs of public support, number of businesses and jobs created, cost-effectiveness, and program effectiveness. Early and regular feedback to the participating intermediaries is also specified.

### 4. Other Legislative Changes

- (a) The Social Security Act and the Food Stamp Act will be amended, as appropriate, to comport with the changes in the tax laws. In addition, amendments will be drafted to include the following provisions:
  - (i) Lump sum income: Non-recurring lump sum income will not be counted for resource purposes in the month of receipt or the following month if put in an IDA.

- (ii) The total exclusion for an AFDC assistance unit or Food Stamp household is \$10,000.

Rationale

IDs and other set-asides provide welfare recipients the opportunity to be entrepreneurs in the private sector and accumulate savings for specific purposes. This approach promotes self-sufficiency by empowering them to start their own businesses and encouraging them to save money they earn to build for their future. Additionally, the money saved in IDs might be used by participants for educational and training purposes, thus saving local program resources.

(C) Microenterprise (Self-Employment)

Current Law

Resource Exclusions

Under Federal AFDC policy, except for real property, States may disregard for AFDC purposes income-producing property (as defined by the State) of self-employed individuals. States may also disregard income-producing property owned by a recipient who is not currently employed, but who the State reasonably expects to return to work. Federal regulations at 45 CFR 233.30(a)(3)(xxi) require that States disregard, for AFDC purposes, bona fide loans from any source for any purpose that meet the criteria set out in the State Plan.

Section 5(g)(2) of the Food Stamp Act and implementing regulations at 7 CFR 273.8(e)(4), (5), (6), (9), (15) and (16) exclude "property which annually produces income consistent with its fair market value; property which is essential to the self-employment of a household member; installment contracts for the sale of lands and buildings, if the contract ... is producing income consistent with fair market value; resources.. of.. self-employed persons, which has been prorated as income;" non-liquid assets with liens resulting from business loans; and real or personal property that is needed for maintenance of certain vehicles.

Specifications

- (a) Amend the Social Security and Food Stamp Acts to give the respective Secretaries the authority to specify in regulations exclusions necessary for self-employment. Require that these regulations be prepared jointly and demonstrate consistency between the two programs.
- (b) Amend the Food Stamp Act to exclude business loans from resources.

Rationale

Current AFDC policy does not permit funds necessary for the operation of a microenterprise to be excluded separately from the general \$1,000 resource limit. This restriction discourages recipients from establishing small businesses. By expanding the microenterprise resource exclusions, microenterprise owners will be able to set aside sufficient liquid resources to operate the business.

## 2. INCOME ISSUES

### Vision

*Federal laws or rules frequently disregard a part or the total income of applicants and recipients in determining eligibility and benefits for assistance programs. Often, the same income is treated differently in the AFDC and Food Stamp programs. Such differences are incomprehensible to recipients and difficult to administer.*

*Our goal is to adopt uniform equitable income disregard policies for the AFDC and Food Stamp programs which are easy to understand, simple to administer and promote work and education.*

### 1. Treatment of Lump Sum Income

#### Current Law

*Under Section 402(a)(17) of the Social Security Act, non-recurring lump sum income is considered to be available to meet an AFDC family's current and future needs. If the assistance unit's countable income, because of receipt of lump sum income, exceeds the applicable State need standard, the unit is ineligible for a period determined by dividing the total countable income (including the lump sum) by the need standard.*

*The Food Stamp Act, at 5(d)(8), excludes from income non-recurring lump sum payments. Such amounts, if not spent in the month received, are treated as resources.*

#### Specifications

For applicants and recipients:

- (a) Amend section 402(a)(17) of the Social Security Act (SSA) to exclude non-recurring lump sum payments from income.
- (b) Amend both the SSA and FSA to disregard as resources, for one year from the date of receipt, non-recurring lump sum payments that are reimbursements or advanced payments.
- (c) Amend both the SSA and the Food Stamp Act (FSA) to disregard the amount of any Federal or State EITC lump sum payments as resources for one year from receipt.

#### Rationale

*Lump sum payments are treated completely differently in the two programs. Considerable simplification for both the clients and workers can be achieved if the policies are consistent. Also, current AFDC policy can result in hardship for families since they are supposed to conserve the payments to meet future living expenses rather than to cover debts and other costs.*

### 2. Treatment of Educational Assistance

#### Current Law

*Several laws address the treatment of educational assistance for AFDC. Any educational assistance provided under programs in title IV of the Higher Education Act or the Bureau of Indian Affairs must*

be disregarded (P.L. 102-325, sec. 479B). A State must disregard payments made for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392, sec. 507(a)). Under AFDC rules, the State must disregard educational loans and grants that are obtained and used for direct educational expenses, such as tuition and books (233.20(a)(3)(iv)(B). (Any of the educational assistance covering items in the State's need standard is counted as income.) Also, States may disregard all educational assistance as complementary assistance that is for a different purpose than AFDC (233.20(a)(3)(vii)(a)).

Portions of income received under the Job Training Partnership Act and the Higher Education Act are disregarded in the Food Stamp program. By regulation, such educational assistance provided on behalf of the household for living expenses, food, or clothing to the extent that the funds exceed the costs of tuition and mandatory fees, are counted as income. (7 CFR 273.9(c)(1)(v); 273(c)(3); 273(c)(4); 273.9(c)(5)(i)(D); and 373.9((c)(10)(xi).

Specifications

- (a) Amend the Social Security Act and Food Stamp Act to totally disregard all educational assistance received by applicants and recipients.

3. Earnings of Students

Current Law

For a dependent child receiving AFDC, the earned income of a full-time or part-time student (not employed full-time) attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment is disregarded (402(a)(8)(A) of the Social Security Act). At State option, the earned income of a dependent child applying for AFDC may also generally be disregarded. The earnings of minor parents attending school are not excluded.

Effective September, 1994, the Food Stamp program will exclude the earnings of elementary or high school students age 21 and under (FSA 5(d)(5); 7 CFR 273.9(c)(7).

Specifications

- (a) Amend the Social Security and Food Stamp Acts to conform Food Stamps to AFDC policy and limit the disregards to elementary and secondary students up to age 19.

4. Irregular Income

Current Law

No statutory provisions address irregular income for AFDC. Rules permit States to disregard small, nonrecurring gifts not to exceed \$30 per individual per quarter (233.20(a)(3)(iv)(F).

The Food Stamp Act (Sec. 5(d)(2)) requires the exclusion of income of \$30 or less in a quarter per household received too infrequently or irregularly to be anticipated. The exclusion does not apply under retrospective budgeting.

Specifications

- (a) Amend the Food Stamp Act to conform to AFDC rules to exclude inconsequential income not in excess \$30 per individual per quarter.

5. Treatment of JTPA Income

Current Law

For AFDC, the income of a dependent child which is derived from participation in a JTPA program may be disregarded. Earned income may be disregarded for a period up to six months per calendar year. Unearned income may be disregarded indefinitely (section 402(a)(8)(A)(v) of the SSA).

Under Food Stamps, training allowances from vocational and rehabilitation programs and JTPA earnings are excluded, except income from on-the-job training programs under section 204(5) of title II. All OJT income of individuals under age 19 and under parental control is excluded. (7 CFR 273.9(b)(1)(iii) and (v); 273.9(c)(10)(v))

Specifications

- (a) Amend the Social Security and the Food Stamp Acts to disregard as income all training stipends and allowances received by a child or adult from any program, including JTPA.

- (b) Eliminate targeted earned income disregards so that the earned income from any on-the-job training programs or from a job will be counted after the general earned income disregards are deducted.

6. Supplemental Payments

Current Law

Section 402(a)(28) of the Social Security Act requires those States that deduct income from the need rather than the payment standard (fill-the-gap) now and in July of 1975 to provide a supplemental payment to families who have less disposable income because child support is paid to the child support agency instead of directly to the family.

Food Stamps - No such provision exists in the Food Stamp program.

Specifications

- (a) Amend the Social Security Act to remove this provision.

7. Treatment of In-kind Income

Current Law

AFDC rules require earned in-kind income to be counted. As a matter of policy, States may disregard any unearned in-kind income. If the State elects to count unearned in-kind income, the amount counted is limited to the value of the item in the State's need standard.

*Under Food Stamps, in-kind benefits such as food, clothing, housing, produce are excluded. (FSA 5(d)(1); 7 CFR 273.9(c)(1))*

**Specifications**

- (a) Amend the Social Security Act to require States to disregard both earned and unearned in-kind income.

**Treatment of National and Community Service Act Benefits**

**Current Law** ...

*No statutory provision excludes, for purposes of the AFDC program, allowances, stipends and educational awards received by participants in a National Service program established under the National and Community Service Act of 1990, as amended, by the National and Community Service Trust Act of 1993.*

*The Food Stamp program will exclude from income National Service program benefits. The National and Community Service Act, as amended, specifies that the exclusion in section 142(b) of the Job Training Partnership Act (JTPA) applies to National Service program benefits. Section 142(b) of the JTPA provides that payments will not be considered as income for purposes of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than Social Security Act programs.*

**Specifications**

- (a) Amend section 402(a)(8)(A) of the Social Security Act to disregard from the income of a family allowances, stipends, and educational awards, received by volunteers participating in a National Service Program under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

**3. FILING UNIT**

*Under current law, the AFDC filing unit must consist of a needy deprived child, its natural or adoptive parent(s), and all natural and adoptive brothers and sisters (including half brothers and sisters) who are living together. The unit's income and resources are used to determine eligibility and the amount of payment. A stepparent is treated the same as a natural or adoptive parent for filing unit purposes in seven States (Nebraska, New Hampshire, Oregon, South Dakota, Utah, Vermont, and Washington). These States have laws of general applicability which hold the stepparent responsible for the children to the same extent as a natural or adoptive parent. In all other States, the stepparent's needs are not included in the unit and his/her income, after certain disregards, are considered available to the unit members.*

*If there is no parent in the home, then another non-legally responsible relative with whom the child is living may, at his/her option, join the unit and be assisted. Additionally, States may exercise the option of including other individual(s) living in the home as an essential person(s). The essential person's income and resources are used to determine eligibility and amount of payment.*

*Certain parents and siblings are excluded from the unit: illegal and sponsored aliens, recipients of SSI, foster children, and individuals ineligible due to lump sum income.*

1. UP Provisions

Current Law

The Social Security Act at section 407(a) and 407(b) limits AFDC eligibility for two-parent families to those where the principal wage earner is unemployed, and has worked six of the last 13 quarters. "Unemployed" is defined in regulations as working less than 100 hours in a month.

Specifications

- (a) Allow States, at their option, to modify, reduce, or eliminate any of the special eligibility requirements for two-parent families (e.g., the 100-hour rule, 30 day unemployment requirement, the work history test, etc) for both applicants and/or recipients. For States that elect to maintain a 100 hour rule (or a modified hour rule), WORK program participation would not count towards this rule.
- (b) Remove the sunset provision that allows for the termination of AFDC-UP in 1998 and make it a permanent program.
- (c) The effective date for the above provisions shall be October 1, 1996.

Rationale

Some of the arguments for removing the additional eligibility requirements are that eliminating them would:

- remove the AFDC marriage penalty in which single-parent families have easier access to benefits than married couples;
- improve horizontal equity by treating disadvantaged children the same irrespective of whether they live with one or two parents;
- encourage work, as the current rule limiting labor market attachment would be incongruous in a new transitional welfare program that emphasizes work; and,
- also enhance the simplicity of the system.
- Finally, a number of States have sought waivers in this area.

2. Essential Person Provision

Current Law

The Social Security Act at section 402(a)(7) and the implementing regulation at 45 CFR 233.20(a)(2)(vi) permit States, at their option, to include in the AFDC grant benefits for essential persons. Such individuals are not eligible for AFDC in their own right, but their needs are taken into account in determining the benefits payable to the AFDC family because they are considered essential to the well-being of an AFDC recipient in the family. Twenty-two States currently include the option as part of their respective State plans.

Specifications

(a) Limit the kinds of individuals that a State may identify as essential to individuals providing at least one of the following benefits or services to the AFDC family:

- (1) child care which enables a caretaker relative to work full or part-time outside the home;
- (2) care for an incapacitated AFDC family member in the home;
- (3) child care that enables a caretaker relative to attend high school or GED classes on a full or part-time basis;
- (4) child care that enables a caretaker relative to participate in JOBS; and
- (5) child care that enables a caretaker relative to receive training on a full or part-time basis.

### Rationale

The Social Security Amendments of 1967 provided a specific statutory base for an essential person policy. This policy has two aspects. First, States are permitted to specify those individuals who can be considered essential; second, States must permit the AFDC family to have the final decision as to whether such individuals are in fact essential. Under this policy, States are not required to identify the benefits or services that these essential persons must provide.

In 1989, this policy became contentious. Based in part on an OIG review of certain State practices the Family Support Administration, published final regulations which limited State authority to determine categories of individuals who could be considered as essential to the family. These regulations precluded States from covering individuals who did not provide an essential benefit or service to the family. (The permissible categories are the five shown in option 2 above.) However, in 1990 the district court for the Eastern District of Pennsylvania in *Vance v. Sullivan* and the district court for the District of Maine in *McKenney v. Sullivan* held that these regulatory limitations conflict with section 402(a)(7)(A) of the Social Security Act. The courts interpreted this section as providing States with the authority to identify in their State plans the categories of individuals who may be recognized as essential persons. These judicial decisions were not appealed. Consequently, the Department revoked the 1989 regulations and reinstated the prior policy. In order to rationalize the use of the essential person policy, a statutory amendment to section 402(a)(7)(A) is necessary.

### 3. Stepparent Deeming

#### Current Law

Section 402(a)(31) of the Social Security Act requires that the income of an AFDC dependent child's stepparent who lives in the same home as the child is counted in the monthly determination of eligibility and the amount of assistance. The statute also requires that the following disregards will be applied in determining the amount of the stepparent's countable income:

- The first \$90 of the stepparent's gross earned income;

- An additional amount for the support of the stepparent and other individuals who live in the home, who are not in the assistance unit, and who the stepparent claims as dependents for Federal income tax purposes. This disregard must equal the State's need standard amount for a family group of the same composition as the stepparent and the other individuals not in the assistance unit;

- Alimony and child support payments to individuals not living in the household; and

- Amounts actually paid by the stepparent to individuals not living in the home but who he or she claims as dependents for Federal income tax purposes.

**Specification**

- (a) Amend the Social Security Act to give States the flexibility to increase the amount of the stepparent disregards. This provision shall be effective October 1, 1995.

**Rationale**

Allowing the disregards to be increased provides incentives for AFDC recipients to marry, to improve the stability of the family, and provides an incentive for stepparents to increase their earnings.

**4. OPTIONAL RETROSPECTIVE BUDGETING**

**Current Law**

For the AFDC program, the Social Security Act permits States to use retrospective budgeting only for the categories of families required to monthly report. The Food Stamp Act permits States to retrospectively budget cases that are not required to monthly report.

**Specifications**

- (a) Amend the Social Security Act at section 402(a)(13) to delete the clause "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14)." This technical amendment will make retrospective budgeting optional for States without regard to whether families are required to monthly report.

**Rationale**

Allowing States to use retrospective budgeting without requiring cases to monthly report will foster consistency between the AFDC and Food Stamp programs, and will give States greater flexibility to administer their programs.

**5. MISCELLANEOUS ADMINISTRATIVE PROVISIONS**

**1. Underpayments**

**Current Law and Policy**

Section 402(a)(22) of the Social Security Act requires State agencies to promptly take all necessary steps to correct any underpayment. Regulations at 45 CFR 233.20(a)(13) limit the issuance of underpayments (both agency and client caused) to current recipients and former recipients who would be currently eligible if the error causing the underpayment had not occurred. As a result of litigation, program policy also permits States to issue underpayments to former recipients who would no longer be currently eligible. The amount of the underpayment is not limited by the number of eligible months covered.

Section 11(e)(11) of the Food Stamp Act provides that benefits are to be restored to a household requesting them if the benefits have been "wrongfully denied or terminated." The period for which benefits are restored is limited to one year prior to the date the State agency either receives a request

for restoration from the household or otherwise learns that a loss to the household occurred. The Food Stamp rule (7 CFR 273.17) also prohibits the State agency from restoring benefits for a period longer than 12 months. The rule requires that benefits be restored even if the household is currently ineligible.

Vision

To provide clients with a rational and consistent policy in the processing of underpayments.

Specifications

- (a) Amend section 402(a)(22) of the Social Security Act to conform to Food Stamp law by requiring the issuance of agency caused underpayments to current and former recipients for a period not in excess of 12 months from the date that the agency learns about the underpayment.

Rationale

Since clients are responsible for reporting changes in circumstances that affect eligibility and benefits, a 12-month limit on restoring lost benefits due to agency error reinforces positive behavior. The change also achieves consistency between the AFDC and Food Stamp underpayment policies.

2. Recovery of Overpayments Through Federal Tax Intercept

Current Law

Section 402(a)(22) of the Social Security Act requires, as a condition for aid and services to needy families with children, a State plan which must provide that a State agency will promptly take all necessary steps to correct any overpayment to any individual who is no longer receiving aid under the plan. Recovery shall be made by appropriate action under State law against the income or resources of the individual or the family.

Vision

To allow State agencies to recover AFDC program overpayments through the use of a tax intercept program in coordination with the IRS. A 50% match rate to cover administrative costs will be provided.

Specifications

- (a) Amend section 402(a)(22)(b) of the Social Security Act to permit State agencies to coordinate with the IRS to intercept Federal Income Tax Returns for the collection of outstanding AFDC overpayments; provided they pursue other means of collection under State law prior to using the Federal tax intercept program. The tax intercept recovery method would only be used to recover overpayments made to individuals who are no longer receiving aid under the plan.
- (b) The administrative costs would have a 50% Federal match rate for State expenses.