

WELFARE

SIDE-BY-SIDE COMPARISON

COMPARISON OF MAJOR WELFARE REFORM PROVISIONS

	ADMINISTRATION BILL	SENATE BILL (H.R. 4)	CONFERENCE BILL (H.R. 4)	NGA PROPOSAL
Block Granting AFDC	Temporary Employment Assistance, the cash assistance program, is an uncapped entitlement to states. Funding for work, cash assistance program administrative costs, and EA is folded into a capped entitlement.	Block grants AFDC, EA, JOBS, and child care into a single capped entitlement to states. The block grant provides a separate allocation specifically for child care.	Block grants AFDC, EA, and JOBS into a single capped entitlement to states. The block grant provides a separate allocation specifically for child care.	Block grants AFDC, EA, and JOBS into a single capped entitlement to states. The block grant provides a separate allocation specifically for child care.
Individual Entitlement	Families with a needy child (as defined by the state) are guaranteed assistance.	No individual guarantee of assistance.	No individual guarantee of assistance.	No individual guarantee, but states must have objective criteria for delivery of benefits and ensuring equitable treatment.
Time Limits	Flexible conditional entitlement to cash benefits for 5 years, followed by a mandatory child voucher. There are hardship exemptions from the 5-year time limit for those working more than 20 hours per week (state option), families in high-unemployment areas, plus an additional 15% of the caseload. At state option, a state could exempt 20% of caseload for hardship reasons instead of the above. Months where an individual is in a child-only case, a teen parent attending school, or exempt from the work requirements, do not count toward the time limit.	Families who have been on the rolls for 5 cumulative years (or less at state option) would be ineligible for cash aid. States would be permitted to exempt up to 20% of the caseload from the time limit. States are not permitted to provide non-cash benefits or vouchers to families that are time limited.	Families who have been on the rolls for 5 cumulative years (or less at state option) would be ineligible for cash aid. States would be permitted to exempt up to 15% of the caseload from the time limit. States are allowed (but not required) to provide non-cash benefits or vouchers to families that are time limited.	Families who have been on the rolls for 5 cumulative years (or less at state option) would be ineligible for cash aid. States would be permitted to exempt up to 20% of the caseload from the time limit. States are allowed (but not required) to provide non-cash benefits or vouchers to families that are time limited.
Work Requirements	A state's required work participation rate would be set at 30% in FY 1997, rising to 52% by FY 2003. Recipients would be required to work at least 30 hours per week by FY 2000. The bill allows mothers with children under age 6 to work part-time (20 hours per week) through FY 2002. Those leaving welfare for work count toward work requirement. Exemptions from the work requirements include: individuals who are seriously ill, aged, caring for a child under age one, pregnant, caring for a disabled family member, or cannot find child care.	A state's required work participation rate would be set at 25% in FY 1996, rising to 50% by FY 2000. The bill allows mothers with children under 6 to work part-time (20 hours per week) through FY 2002. Recipients must work 35 hours per week by FY 2002. The bill also allows states to exempt families with children under age one from work requirements. Those leaving welfare for work count toward participation requirements.	A state's required work participation rate would be set at 15% in FY 1996, rising to 50% by FY 2002. Same hour requirements as Senate bill. States have the option to exempt single parents with children under age 1 from work requirement. No part-time work option for mothers with young children. Those leaving welfare for work do not count toward work requirements.	A state's required work participation rate would be set at 15% in FY 1996, rising to 50% in FY 2002. The resolution allows mothers with children under age 6 to work 20 hours per week through FY 2002. All other non-exempt recipients must work an average of at least 25 hours per week, by FY 1999. The resolution also allows states to exempt families with children under age one from work requirements; changes the participation rate calculation to take into account those who leave cash assistance for work; and allows job search and job readiness to count as a work activity for up to 12 weeks.

	ADMINISTRATION BILL	SENATE BILL (H.R. 4)	CONFERENCE BILL (H.R. 4)	- NGA PROPOSAL
Child Care	The bill adds \$3.8 billion above current law for child care under new CBO scoring, essentially doubling the amount of child care dollars above current law relative to the Conference bill. States must provide parents with child care if they are required to work or prepare for work and if they lose AFDC eligibility due to work, for up to 12 months.	From FYs 1996 - 2000, \$8 billion would be available as a set-aside in the cash assistance block grant for child care assistance. States would be required to match \$5 billion of the child care funds at the FMAP. An additional \$1 billion per year is available in discretionary spending under CCDBG. Overall, a \$8 billion increase in mandatory funding over 7 years (new CBO baseline). Recipients cannot be sanctioned for not working if child care is unavailable.	The bill contains a total of \$7 billion in discretionary funding and \$10 billion in mandatory funding (FYs 1996 - 2002) in a separate child care block grant. States would be required to match \$3.8 billion of the mandatory funding at the FMAP. Overall, increases mandatory child care funding over current law by \$1.9 billion over 7 years (new CBO baseline).	The resolution contains a total of \$7 billion in discretionary funding and \$14 billion in mandatory funding (FY 1996 - 2002). Overall, increases mandatory funding by \$4 billion over the Conference bill and \$5 billion over the Senate bill. Increases mandatory child care funding over current law by \$5.9 billion over 7 years (new CBO baseline). All of the funding added over the Conference bill is an unmatched general entitlement to the states.
Economic Contingency Grant Fund	The cash assistance program (TEA) remains an uncapped entitlement which automatically adjusts for changes in economic conditions or population.	\$1 billion would be appropriated for FYs 1996 - 2002 for matching grants to states with high unemployment rates. States must maintain their full FY 1994 level of effort to use funds. An emergency loan fund of \$1.7 billion, and a \$880 million grant fund for low-benefit, high population-growth states would also be available.	The bill includes \$1 billion for grants to states with high unemployment (state must match); \$800 million grant fund for states with high population growth, benefits lower than 35% of the national average, or above average growth and below average AFDC benefits (no state match); and \$1.7 billion loan fund.	Adds \$1 billion to the proposed funding for the contingency fund for a total of \$2 billion. States can meet one of two triggers to access the contingency fund: the unemployment trigger in the conference agreement and a new trigger based on food stamps. Under the second trigger, states would be eligible for the contingency fund if their food stamp caseload increases by 10% over FY 1994 or FY 1995 Food Stamp caseload levels. Unlike the Senate bill and the conference agreement, states would not be required to maintain their FY 1994 level of effort in order to access the contingency funds. A state could begin drawing down additional dollars before it had matched its FY 1994 level of spending.
Performance Bonus to Reward Work	The bill provides \$800 million over 5 years to provide performance bonuses to states (bonuses would not be funded from work program dollars). The Secretary, in consultation with states and other interested parties, would be required to develop a system of performance measures and bonuses that rewards states that operate effective work programs.	Establishes a performance bonus set-aside within the block grant, but does not provide additional resources. Performance bonus fund totals \$2 billion over 3 years. Bonuses are based on performances on a range of measures, including job placement.	Similar performance measures as the Senate bill, but states receive up to an 8 percentage point reduction in maintenance of effort instead of bonus payment.	Provides bonuses of 5% of the state's block grant annually to states that exceed specified employment-related performance target percentages. (Preliminary estimate of \$2 billion). These bonuses would be in addition to block grant base.
Family Cap	State option to implement a family cap.	No federal mandate to deny assistance; option for state action as in Administration bill.	States would be required to deny cash benefits to children born to welfare recipients unless the state legislature explicitly votes to provide benefits.	No federal mandate to deny assistance; option for state action as in Administration bill.

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Child Support	Includes major comprehensive child support enforcement reform measures, including paternity establishment, state central registries of child support orders, uniform procedures for interstate cases and penalties, such as license revocation. Preserves \$50 pass-through of child support to cash assistance recipients.	Major provisions are the same or similar to Administration bill, except it eliminates the \$50 pass-through.	Major provisions are the same or similar to Administration bill, except it eliminates the \$50 pass-through.	Major provisions are the same or similar to Administration bill, except it eliminates the \$50 pass-through.
Medicaid Eligibility	Preserves Medicaid coverage for those now eligible for AFDC. Maintains transitional Medicaid.	Preserves Medicaid coverage for those now eligible for AFDC. Maintains transitional Medicaid.	Eliminates guarantee of Medicaid coverage for cash assistance recipients. Transitional Medicaid eliminated.	Allows states to either provide Medicaid coverage to those eligible under current AFDC standards (higher-benefit states would be allowed to reduce their standards to the national average) or to those eligible under the new cash assistance program standards. Transitional Medicaid eliminated.
SSI For Children	SSI and Medicaid eligibility would be restricted to those children who meet the medical listing; Individual Functional Assessment (IFA) and references to maladaptive behavior would be repealed. For current recipients eligible under an IFA, redetermination under new rules must occur before 1/1/98 -- benefits would continue at least until that date.	SSI and Medicaid eligibility would be restricted to those children who meet the medical listing; Individual Functional Assessment (IFA) and references to maladaptive behavior would be repealed.	SSI and Medicaid eligibility would be restricted to children who meet the medical listing. IFA and references to maladaptive behavior would be repealed. Effective January 1, 1997, for current recipients and new applicants, a 2-tiered benefit system would be established. Children who need personal assistance in order to remain at home would receive 100% of the benefit. Children who meet the listings but not the personal assistance criteria would receive 75% of the benefit.	Same as the Senate bill, except for Medicaid provisions. Effective date is deferred until January 1, 1998. Eliminates guarantees of Medicaid coverage for children receiving SSI.
Maintenance of Effort	The cash assistance program remains an uncapped entitlement; the amount of federal funding provided would depend on the level of state spending.	States would be required to maintain 80% of FY 1994 spending on AFDC and related programs for FYs 1996 - 1999.	States would be required to maintain 75% of FY 1994 spending on AFDC and related programs for FYs 1996 - 2000.	States would be required to maintain 75% of FY 1994 spending on AFDC and related programs for FYs 1996 - 2000. Maintenance of effort could be reduced to 67% through performance measures.
Personal Responsibility Contract	Includes personal responsibility contracts for welfare recipients, under which benefits would be reduced for failure to comply.	Includes personal responsibility contracts for welfare recipients, under which benefits would be reduced for failure to comply.	No personal responsibility contract.	No provision.
Child Nutrition		No block grants proposed. Contains program cuts amounting to \$4 billion over 7 years.	No mandatory child nutrition block grants, but permits up to 7 school nutrition block grant demonstrations. WIC remains a separate program. Child nutrition spending would be reduced by about \$6.3 billion over 7 years.	Provides for school lunch block grant demonstration, under which the current entitlement for children is maintained; states would continue to receive the proportion of administrative costs based on current law, but in a block grant.

	ADMINISTRATION BILL	SENATE BILL (H.R. 4)	CONFERENCE BILL (H.R. 4)	NGA PROPOSAL
Child Protection and Adoption	Same as current law.	Maintains current entitlement for foster care and adoption payments and for administrative programs. No funding restrictions.	Maintains the entitlement for direct payments to families and block grants administration programs. Overall, reduced mandatory funding by \$400 million over 7 years.	Maintains the entitlement for direct payments to families and provides a state option to take foster care, adoption assistance, and independent living program as a capped entitlement. States that take the option must continue to maintain effort at 100%. States must maintain protections and standards under current law. States can reverse their decision on a yearly basis.
Teen Parent Provisions	Minor parents would be required to live in an adult supervised environment and participate in education and training activities. States would have the option to add penalties to encourage teen parents to complete high school and participate in parenting activities. The Secretary of Health and Human Services would establish a National Clearinghouse on Adolescent Pregnancy.	In order to receive assistance, unmarried minor parents would be required to live with an adult or in an adult-supervised setting and participate in educational or training activities.	Same as the Senate bill.	Same as the Senate bill.
Food Stamps	The Administration proposal would achieve savings in federal funding for food stamps by reducing the standard deduction, setting the maximum allotment equal to the Thrifty Food Plan, and counting energy assistance as income. In addition, single, childless adults would be required to work part-time or participate in employment and training activities unless the state cannot provide opportunities to participate in such activities. Federal program expenditures would remain uncapped.	The Senate bill would reduce federal funding for food stamps by \$24 billion over 7 years (new CBO scoring). Able-bodied childless adults between 18 and 50 would be ineligible for food stamps after 6 months unless they work half-time or participate in a work or training activity. States would have the option to receive food assistance as a capped block grant. States that choose to implement a block grant would be required to use 80% of the funds for nutrition assistance; the remaining funds could be used for administrative costs or transferred to work-related programs.	The Conference bill would reduce federal funding for food stamps by \$27.5 billion over 7 years (new CBO scoring). Able-bodied childless adults between 18 and 50 would be required to participate in workfare or employment and training program as a condition of eligibility. An optional food stamp block grant would be available to states that have a fully implemented EBT system or meet certain payment accuracy standards. States choosing block grants would be required to meet specified requirements, and would have to restrict benefits to illegal immigrants.	Same as Conference bill, except for the Senate provision which reauthorized the Food Stamp program in its current uncapped entitlement form. Also adopts Senate provision to reduce and freeze the standard deduction.

	ADMINISTRATION BILL	SENATE BILL (H.R. 4)	CONFERENCE BILL (H.R. 4)	NGA PROPOSAL
Immigrants	Extends deeming until citizenship under SSI, AFDC, and Food Stamps; makes affidavits of support legally binding; and creates a more narrow definition of alien eligibility under SSI, AFDC, and Medicaid.	<p>Most legal immigrants ineligible for SSI; future immigrants ineligible for 5 years for most other federal needs-based programs. States provided the option to deny most assistance to current and future immigrants. Extends deeming to 5 years for current immigrants; 40 quarters for future immigrants, even if they become naturalized citizens; and makes affidavits of support legally binding until 40 qualifying quarters (for future sponsors/immigrants). Creates narrower definition of alien eligibility (compared to Administration bill) and imposes new verification requirements on most federal and state programs.</p> <p>Virtually all federal benefit programs would be required to verify the citizenship or alienage status of every applicant, except: emergency Medicaid, school lunch, WIC, short-term disaster relief, and public health assistance for immunizations and treatment of communicable diseases. A new, much more narrow definition of "qualified" alien would deny federal benefits to those immigrants not "qualified."</p>	Most legal immigrants ineligible for SSI and Food Stamps; future immigrants ineligible for 5 years for most other federal needs-based programs. States provided the option to deny most assistance to current and future immigrants. Extends deeming to citizenship; and makes affidavits of support legally binding until the immigrant attains citizenship (for future sponsors/immigrants). Creates a narrower definition of alien eligibility (compared to Administration bill) and imposes new verification requirements on virtually all federal, state, and local programs. Requires SSA, state welfare and local housing agencies to report to INS quarterly any information regarding individuals who they know are in the U.S. unlawfully.	No policy position.
SSI for Drug Addicts and Alcoholics	Denies SSI eligibility (and consequently Medicaid eligibility) to individuals whose alcoholism or drug addiction would be material to the finding of disability. The provision is effective immediately for new applicants and January 1, 1997 for current recipients. Funding for additional substance abuse treatment in the amount of \$50 million per year in FYs 1997 and 1998 would be added to the Substance Abuse Prevention and Treatment Block Grant.	Effective January 1997, individuals with an addiction material to the finding of a disability would no longer be eligible for SSI and would lose their Medicaid eligibility. Other disabled individuals on SSI with a substance abuse condition would be required to participate in treatment as a condition of eligibility and would be required to have their benefits paid through a representative payee. \$50 million for each of FYs 1997 - 1998 would be appropriated for state programs for drug addicts and alcoholics through the Substance Abuse Prevention and Treatment Block Grant.	No provisions.	No provisions.

NOTES: NGA proposals are summarized from draft of NGA policy position; document implies areas with no explicit NGA provision would follow the Conference bill language. Some spending levels are not directly comparable because CBO baseline was changed in December 1995.

SUMMARY OF NGA PROPOSAL

Summary of NGA Modifications to Conference Agreement

*** not including SSI, Housing, Food Stamps, or Child Nutrition Programs ***

Individual Protections, Time Limits and Family Cap

- States would be required to set forth in their State plans objective criteria for the delivery of benefits and for fair and equitable treatment.
- Hardship exemption from the time limit would be set at 20 percent (up from 15 percent in the conference agreement).
- The family cap would be an explicit State option, rather than a requirement that a State could opt out of by passing a law exempting itself.

Contingency Fund, Maintenance of Effort and Performance Bonus

- The contingency fund would be set at \$2 billion (up from the \$1 billion in the conference agreement). States could access the fund by meeting either the unemployment trigger or a trigger based on increases in food stamp receipt. If a State's food stamp caseload increased by 10 percent over the FY 1994 or FY 1995 level, the States would be eligible for dollars from the contingency fund.
- States would not be required to maintain 100 percent of FY 1994 effort to be eligible for the contingency fund. Instead, qualifying States would begin drawing down dollars once they had met the overall 75 percent maintenance of effort requirement. In addition, States would be eligible for an additional \$4 billion in child care funding (over six years) regardless of their level of State effort.
- Cash bonuses equal to 5 percent of their block grant amounts would be awarded to States that exceeded specified employment-related target percentages. The dollars for the bonuses would be in addition to, rather than taken from within, the block grant.

Work Requirements

- Individuals leaving welfare for work would be counted toward the participation rate.
- Individuals (including those in two-parent families) would be required to participate 25 hours per week in fiscal year 1999 and thereafter (as opposed to 30 in FYs 2000 and 2001 and 35 thereafter for single-parent families and 35 throughout for two-parent families). States would have the option to limit hours of participation to 20 for parents of children under 6.
- Job search would be an allowable activity for up to 12 weeks (up from the first four weeks of participation, the limit in the conference agreement).

Child Care

- Would provide an additional \$4 billion in child care funding (for a total increase of \$5.9 billion over 6 years); States would not be required to put up a State match or maintain their FY 1994 level of child care spending in order to access the additional \$4 billion.
- Would limit the percentage of CCDBG funds usable for administrative costs to 5 percent (up from 3 percent in the conference agreement).

Noncitizens

- The Governors declined to take a position on the noncitizen provisions in the conference agreement. In their February 20th testimony, they suggested that members of Congress would soon be hearing directly from governors concerned about the issue.

Child Protection

- Would maintain the open-ended entitlement for foster care and adoption assistance administration and training, as well as maintenance payments. Would allow a State to receive foster care, adoption assistance and independent living funding as a block grant (mandatory funding) adjusted based on the average national caseload growth rate. States would be able to transfer any amount from this capped entitlement into the child protection block grant for activities such as early intervention, child abuse prevention and family preservation. States electing the block grant would be required to maintain current law protections and standards and to maintain fiscal effort at the level of the year prior to election of the block grant option.
- Would create a Child Protection Block Grant (mandatory funding) from the remaining child welfare, family preservation and child abuse prevention and treatment programs (including CAPTA). States would be required to maintain current law protections and standards under the block grant.

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

FY 1992-94, (2) federal payments in FY 1994, or (3) federal payments in FY 1995. States may carry over unused grant funds to subsequent fiscal years. A state could transfer up to 30% of the cash assistance block grant to one or more of the following: the child protection block grant, the title XX block grant, or the child care block grant.

Adjustments: A supplemental grant totaling \$800 million over 4 years would be given to qualifying low benefit, high growth states. Qualifying states would include those in which: (1) the average level of federal welfare spending per poor person is less than the national average and the rate of population growth is above average; or (2) the level of federal welfare spending per poor person in FY 1996 was less than 35 percent of the national average for that year (this would add Alabama, Louisiana, and Mississippi to the states covered by #1); or (3) there is extremely high population growth, defined as a greater than 10 percent increase in population from April 1, 1990 to July 1, 1994 (this would add Alaska). Only states who qualify in FY 1997 would be eligible to receive these funds.

Maintenance of Effort: For FYs 1996 to 2000, states would be required to spend on state family assistance programs an amount equal to 75 percent of the FY 1994 state share of the programs block granted under this title or the child care block grant (including AFDC benefit payments and administration, emergency assistance, AFDC-related child care, and the JOBS program). States could not count Medicaid expenditures or other state expenditures used to qualify for federal matching funds. There would be a dollar-for-dollar reduction in the block grant for failure to meet the maintenance of effort requirement. To qualify for the contingency fund, states must spend at least 100 percent of FY 1994 expenditures on programs replaced by the cash assistance block grant. For additional child care funds, they must spend at a level equivalent to at least 100 percent of FY 1994 expenditures on AFDC-related child care.

NGA Modification: States would not be required to maintain 100 percent of FY 1994 effort to be eligible for the contingency fund. In addition, States would be eligible for an additional \$4 billion in child care funding (over six years) regardless of their level of State effort.

Performance Bonuses: States that perform well on specified performance measures may reduce the 75% state maintenance of effort requirement by up to 8 percentage points. States would be given a score for their performance on each of four measures: (1) exits due to employment, (2) recidivism, (3) earnings of recipients, and (4) reductions in the percentage of children in the state who receive assistance. For each category, the 5 states with the highest score and the 5 states with the greatest improvement over the previous fiscal year would be able to reduce their maintenance of effort requirement by 2 percentage points. In a given fiscal year, a state would not be able to reduce its maintenance of effort requirement by more than 8 percentage points.

NGA Modification: Cash bonuses equal to 5 percent of their block grant amounts would be awarded to States that exceeded specified employment-related target percentages. The dollars for the bonuses would be in addition to, rather than taken from within, the block grant.

Contingency Fund: A contingency fund would be established to allow states experiencing recession to draw down additional funds for their Temporary Assistance programs. State spending (by eligible states) above the FY 1994 level would be matched at the Medicaid rate using the dollars in the contingency fund. Payments from the fund for any fiscal year would be limited to 20 percent of the state's base grant for that year. The fund would be set at a total of \$1 billion for the fiscal years 1997 through 2001. To be eligible for payments from the fund in a fiscal year, a state's unemployment rate for a 3-month period would have to be at least 6.5 percent and 10 percent higher than the rate for the corresponding period in either of the two preceding calendar years. A state would also, as mentioned above, have to maintain its FY 1994 level of state effort.

NGA Modification: The contingency fund would be set at \$2 billion (up from the \$1 billion in the conference agreement). States could access the fund by meeting either the unemployment trigger or a trigger based on increases in food stamp receipt. If a State's food stamp caseload increased by 10 percent over the FY 1994 or FY 1995 level, the States would be eligible for dollars from the contingency fund.

As noted above, States would not have to meet their FY 1994 level of effort to qualify for the contingency fund. Instead, qualifying States would begin drawing down dollars once they had met the overall 75 percent maintenance of effort requirement.

Loan Fund: A revolving loan fund would be established to make loans to states for emergency funding needs. The loan fund would be set at \$1.7 billion. Any state that has not had a penalty imposed against it for misuse block grant funds may borrow up to 10 percent of its annual grant amount to be used for any activities allowable under the Family Assistance program, including welfare anti-fraud activities or assistance to Indian families that move out of the services area of an Indian tribe. Funds must be repaid, with interest, within three years. The Secretary of HHS would not have the authority to forgive an outstanding loan.

Work Program: The JOBS program would be repealed and replaced by a state-designed work program delivered through a statewide system. All parents receiving cash assistance for more than 24 months would be required to participate in work activities, but there are no penalties for not meeting this requirement. Child care would not be guaranteed for mandatory work participants. However, a state would not be able to reduce or terminate assistance based on the refusal of an adult to work if the recipient: 1) is a single custodial parent caring for a child age 5 or under; and 2) the parent

demonstrated an inability to obtain appropriate, affordable child care that is within a reasonable distance from home or work.

Participation Requirements: A state's required participation rate for adults in all adult-headed families to be placed in work program activities would be set at:

- 15% in FY 1996;
- 20% in FY 1997;
- 25% in FY 1998;
- 30% in FY 1999;
- 35% in FY 2000;
- 40% in FY 2001;
- 50% in FY 2002 and thereafter.

The participation rate for two-parent families would be:

- 50% in FY 1996
- 75% in FY 1997
- 75% in FY 1998
- 90% in FY 1999 and thereafter.

States would have the option to exempt families with a child under age one from work requirements. Individuals who are sanctioned would not be counted in the denominator of the participation rate. The work participation rate would be reduced by a percentage equal to the percentage decline in the caseload relative to FY 1995 (not including reductions due to federal law or due to changes in eligibility criteria, with the burden of proof placed on Secretary.) The Secretary could reduce a state's block grant funding by up to 5% (see section on penalties below) for failure to meet the annual participation standard.

NGA Modification: Individuals leaving welfare for work would be counted toward the participation rate.

Definition of Work Activities: Work activities would include unsubsidized employment, subsidized private or public sector employment, on-the-job training, work experience, community service programs, job search activities for the first 4 weeks, and 12 months of vocational educational training (for up to 20 percent of a state's caseload). To count toward the participation rate for all families, individuals would be required to participate an average of 20 hours per week from FY 1996 to FY 1998, 25 hours per week in FY 1999, 30 hours per week in FY 2000 and FY 2001, and 35 hours per week in FY 2002 and thereafter. Individuals would be required to spend at least 20 hours per week in work activities. To count towards the participation rate for two-parent families, individuals would be required to participate a minimum of 35 hours per week, with at least 30 hours per week in work activities.

NGA Modification: Individuals (including those in two-parent families) would be required to participate 25 hours per week in fiscal year 1999 and thereafter (as opposed to 30 in FYs 2000 and 2001 and 35 thereafter for single-parent families and 35 throughout for two-parent families). States would have the option to limit hours of participation to 20 for parents of children under 6.

Job search would be an allowable activity for up to 12 weeks (up from the first four weeks of participation, the limit in the conference agreement).

Child Care Programs: From FY 1997 through 2002, the conference agreement would provide \$6 billion in discretionary funding and \$10 billion in mandatory money to fund child care assistance for poor working families, families on temporary assistance, and families leaving welfare for work or at-risk of welfare dependency. Overall, the proposal would increase mandatory child care funding over the period by \$1.9 billion relative to current law. No growth would be allowed for discretionary funding. The conference agreement would require states to maintain their FY 1994 spending levels to be able draw down (at the Medicaid match rate) the additional mandatory funding. The conference agreement would eliminate health and safety protections and specific consumer education to parents on licensing and complaint procedures and would reduce targeted quality funding.

NGA Modification: Would provide an additional \$4 billion in child care funding (for a total increase of \$5.9 billion over 6 years); States would not be required to put up a State match or maintain their FY 1994 level of child care spending in order to access the additional \$4 billion.

Child Support Requirements: States are required to operate a IV-D program and provide services to IV-A recipients, Medicaid recipients, children receiving foster care and adoption assistance under IV-B, former IV-A recipients and any family that applies for services. IV-A recipients are required to assign their rights to support to the states for arrears accruing before the family received benefits and while the family is receiving benefits. Beginning October 1, 2000 the assignment of arrears for support accruing before the family received assistance will be in effect only while the family in receiving IV-A assistance or if collected through the federal tax offset program. All other assigned pre-assistance support collected will be paid to the family. If an applicant or recipients refuses to cooperate the state must reduce the assistance amount or may deny assistance to the entire family.

State Incentives to Reduce Out-of-wedlock Births: An additional grant would be provided to states that reduce out-of-wedlock births. In FYs 1998 through 2000, an additional grant fund (on top of the family assistance block grant amount) would be established to encourage states to reduce out-of-wedlock births. A state's grant amount would be increased by 5 percent if the state's illegitimacy ratio was a 1 percentage point

lower in that year than its 1995 illegitimacy ratio; the state's grant would be increased 10 percent if the illegitimacy ratio was 2 or more percentage points lower than its 1995 illegitimacy ratio. A state would only be eligible for the bonus if the rate of abortion was not higher than the rate in FY 1995. The illegitimacy ratio would be defined as the number of out-of-wedlock births that occurred in the state, divided by the number of births that occurred in the state for fiscal years for which data is available. Additional grants would not be awarded if it were determined that the changes in the illegitimacy ratio were a result of changes in state methods of reporting and calculating data.

- **Family Cap:** The conference agreement would require states to deny cash benefits to children born to welfare recipients, unless the state legislature explicitly votes to provide them. States would be able to provide non-cash benefits (vouchers) to these children.

NGA Modification: The family cap would be an explicit State option, rather than a requirement that a State could opt out of by passing a law exempting itself.

- **Minor Parent Provisions:** Unmarried parents under age 18 would not be eligible for assistance unless they: (1) live with a parent, legal guardian, or adult relative or in another adult-supervised setting; and (2) participate in educational or state-approved training activities. The state would be required to provide (or assist) in locating an adult-supervised living arrangement if the minor meets certain criteria, such as having no parent or being in a situation in which the minor would be subjected to serious physical or emotional harm, sexual abuse, or exploitation.

- **Penalties:** States would be subject to the following reductions in their block grant: (1) up to a 5 percent reduction for failure to meet the work participation rate, (2) a 4 percent reduction for failure to submit required reports, (3) up to a 2 percent reduction for failure to participate in the Income and Eligibility Verification System, (4) up to a 5 percent penalty for failure to comply with paternity establishment and child support enforcement, and (5) a 5 percent reduction for any intentional misuse of funds. In addition, for any misuse of the grant or unpaid loan (including interest), the grant would be reduced by such amount in the succeeding fiscal year. The payment for any quarter could be reduced by no more than 25 percent due to a penalty; penalties would be carried over to subsequent fiscal years if necessary. The Secretary may waive penalties for cases of good cause. States subject to a penalty would have the opportunity to submit a corrective action plan prior to the imposition of a penalty. If a corrective action plan were submitted, the penalty would be deferred. If the violation were not corrected in a timely manner, some or all of the penalty would be assessed.

- **Evaluations and Data Collections:** States would be required to submit monthly disaggregated case record data on the characteristics of families receiving assistance. This includes the number of adult and child recipients, demographic characteristics of adults, the amount of cash assistance provided, multiple program participation of families, child care usage, case closures due to employment and time limits, and data needed to calculate participation rates.

\$15 million would be authorized for each of FYS 1996 to 2000 for research and evaluation. 50% percent of these funds would be allocated to state-initiated studies of the welfare system (federal funds would cover 90% of the costs of these studies) and to complete evaluations of approved state waivers that are continued after October 1, 1995. The remaining 50% of the funds would be used for federal studies of the benefits, effects, and costs of state programs and for the development and evaluation of innovative approaches to reducing welfare dependency and increasing child well-being. The Census Bureau would receive \$10 million in each of FYS 1996 to 2000 to evaluate the effect of the welfare reforms through surveying a random sample of recipients and other low-income populations as appropriate.

- **Abstinence Education:** \$75 million per year would be drawn from the Maternal and Child Health Block Grant for an abstinence education program.
- **State Flexibility:** While the Temporary Assistance program must be in effect statewide, states would determine all rules relating to benefit levels and eligibility criteria. However, states would not be required to provide benefits to all those who meet eligibility requirements if, for instance funds fall short. States would be allowed to use block grant funds in any manner that is reasonably calculated to accomplish the purpose of the bill. At the same time, the Secretary is prohibited from regulating the conduct of the states or enforcing any provision beyond what is specified in the bill. States would set the criteria for child care assistance under their Family Assistance programs. A 15 percent cap would be placed on administrative expenditures. Spending for information technology and computerization needed to implement the tracking and monitoring required by this title, however, would be excluded from the limitation.
- **Contracting Services To Religious, Charitable, or Private Organizations:** The conference agreement follows the Senate provision -- states could contract to religious, charitable, or private organizations under Titles I, II, and X (that permit contracts with organizations or permit certificates, vouchers, or other forms of disbursement of assistance to beneficiaries). States could require organizations to form a separate, nonprofit corporation to administer the assistance program, but organizations would not be required to alter their form of internal governance or remove religious art, icons, or other symbols. An individual would have the right to object to receiving assistance from a religious provider and the state would be required to provide comparable assistance from an alternate provider. Such organizations could not deny services to individuals on the basis of religion, religious belief, or refusal to actively participate in a religious practice, however these organizations providing assistance could require that employees rendering services adhere to the religious tenets and teaching of such organizations, as well as any rules of the organization regarding the use of drugs or alcohol. No funds provided to such organizations could be used for sectarian worship or instruction, and organizations would be required to adhere to specified auditing principles for use of funds under this program. The conference agreement specifies that state constitutions could not be overridden by these provisions.

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

- **Annual Ranking of States:** The HHS Secretary would be required to rank states according to changes in: out-of-wedlock birth rates among recipients of cash assistance, reductions in welfare dependency, and diversions from receiving cash assistance. These rankings are in addition to the requirement to rank states according to their success in placing recipients in long-term private sector jobs. No penalties or incentives are attached to these rankings.
- **State Plans:** Each state would be required to make available to the public a summary of its state plan which outlines the provisions of the state's program under the block grant. States would be required to consult with local governments and private sector organizations regarding the plan and design of welfare services. These organizations would have 60 days to submit comments.
- **Waivers:** With respect to the right of states to terminate their waiver demonstration projects or continue to operate them, states would have the authority to continue some individual waivers that were granted as part of the waiver demonstration project, while terminating others. States that opt to terminate waivers would be held harmless for any accrued costs if they terminated the waiver by January 1, 1996 -- these states would be required to submit a report summarizing the waiver and any information concerning its effects. States that continue waivers would be liable for any cost overruns. The amount of block grant funding awarded to a state is not impacted in any way by whether they choose to keep waivers under the existing laws.
- **Provisions for Indian Tribes:** For FY 1997 through 2000, the Secretary would provide a family assistance grant to each Indian tribe that had an approved family assistance plan. This amount would be deducted from the relevant state's family assistance grant. These grants would be set based on the amount of assistance that was received in FY 1994. In FY 1996, assistance would be received through their state's block grant. In addition, \$7.65 million would be made available to provide work program activities for each fiscal year, from FY 1996 until FY 2000, to Indian Tribes that operated a JOBS program in FY 1995. The Secretary would establish, with tribal participation, work rates, time limits, and penalties applicable to each tribal assistance program.
- **Denial of Benefits for 10 Years to Those Found to have Fraudulently Misrepresented Residence in Order to Obtain Benefits Simultaneously in Two or More States:** An individual would be ineligible to receive cash assistance or SSI benefits (under Title II) for a period of 10 years following the date of his/her conviction for making fraudulent statements for the purpose of receiving benefits under public assistance, Medicaid, Food Stamps, or the SSI program in two or more states.
- **Disclosure of Use of Federal Funds:** Organizations which accept federal funds would be required to include a statement of that fact in any advertising intended to promote public support or opposition to any policy of a federal, state, or local government.

- **Displacement Provisions:** The amendment revises the displacement provisions to stipulate that they do not preempt or supersede any other state or local law that provides greater protection for employees. It also clarifies existing language which requires that no adult recipient be assigned to a position where the employer has terminated the employment of a regular employee to create a vacancy.

TITLE III: Child Support

- **Centralized Support Order Registry and Collection Disbursement:** States would be required to record all child support orders in an automated state central case registry and collect and disburse child support payments using an automated centralized collections unit. States would then be able to monitor child support payments and take automatic enforcement actions when payments are missed. The registry would also contain information on all other pending paternity and award establishment cases that are provided services through the Child Support Enforcement system.
- **Reporting of New Hires:** States would be required to establish a State Directory of New Hires. A National Directory of New Hires would be established within the Federal Parent Locator Service. Employers would be required to report information on each new hire to the state directory. Failure to do so would result in a penalty less than \$25 for each unreported hire. Each State Directory of New Hires would be required to conduct automated matches of new hires against the state central support order registry. States would also be required to report their new hire information to the National Directory of New Hires. The National Directory would be required to match these records with records from other state central support order registries. Employers would be required to withhold wages for any employee for whom a match occurs.
- **Interstate Child Support:** States would be required to adopt, with a few modifications, the Uniform Interstate Family Support Act (UIFSA). States would be permitted to enforce interstate cases using an administrative process. The Secretary of HHS would be required to issue uniform forms for use in enforcing child support in interstate cases.
- **Cooperation and Good Cause:** Individuals who apply for or receive assistance under the Temporary Family Assistance Program would be required to cooperate with child support enforcement efforts by providing specific identifying information about the non-custodial parent as required by the state. The child support agency would determine whether individuals had cooperated and good cause exceptions could be applied. At state option, good cause could be determined by the Title IV-A or XXI agency. Appropriate reasons for determining good cause are provided in the bill.
- **Paternity Establishment:** States would be required to have a variety of procedures designed to expedite and improve paternity establishment performance. States would be required to publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support. States could not require signing a voluntary

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

acknowledgment as a condition of eligibility for receipt of IV-A benefits. The paternity establishment performance standard would be increased from 75 percent to 90 percent. States have the option of using only non-marital IV-D cases or all out-of-wedlock births in the state in computing its performance.

- **Funding and Performance Based Incentives:** The existing system of incentive payments would be replaced with a new system developed by the Department of Health and Human Services in consultation with state child support directors. The existing incentive structure would be used to pay the states through fiscal year 1998.
- **Distribution and Pass-Through Policies:** The \$50 pass-through for AFDC families would be eliminated. The state could pass through to the family any amount of child support, however, the entire amount of the pass-through would have to be financed by the state. Beginning October 1, 1997, former assistance recipients would receive all child support owed to them for periods after they stopped receiving assistance, before the state could apply arrearages to IV-A assistance recoupment with the exception that collections of assigned support collected through the tax-offset system would continue to go to the state first. Beginning October 1, 2000, all pre-assistance arrears assigned to the state would go to the family after they no longer receive assistance before the state could recoup support payments it was owed for the assistance period with the exception that collections of assigned support collected through the tax-offset system would continue to go to the state first. The federal government is required to maintain each state's share of IV-A collections at its FY 1995 level (reduced by amounts the state saves by elimination of the \$50 pass-through).
- **Establishment and Modification of Support Orders:** States would be required to review and, if appropriate, adjust all child support orders enforced by the state child support agency every 3 years if requested by the parents (or the state if there is an assignment). States could use automated means to accomplish review and adjustment by using either child support guidelines, applying a cost of living increase to the order and giving the parties an opportunity to contest, or by showing a change in the circumstances of the parties. Upon the request of a party, states could also review and, upon a showing of change in circumstances, adjust orders according to the child support guidelines.
- **Enforcement of Child Support Orders:** In addition to the establishment of a new hire reporting directory to assist in the enforcement of child support orders, all child support orders issued or modified before October 1, 1996, which are not otherwise subject to income withholding, would be immediately subject to wage withholding if arrearages occur (without the need for a judicial or administrative hearing). The Secretary of Defense would be required to establish a central personnel locator service that contains the address of every member of the Armed Services (including retirees) and make this information available to the Federal Parent Locator Service. Various enforcement tools would be included, such as providing states the authority to revoke or suspend driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support; and denial of passports for nonpayment of child support.

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

- **Visitation and Access Grants:** Grants would be made to states for access and visitations-related programs.
- **Enforcement Affecting Grandparents:** States have the option of imposing child support obligations on grandparents in cases when both parents are minors and the custodial parent is receiving benefits under title IV-A.
- **Denial of Benefits for Fugitive Felons and Probation and Parole Violators:** An individual in violation of parole or probation, or after conviction for a crime would be ineligible to receive cash assistance or SSI benefits (under Title II). The agency administering benefits would be required to provide relevant information to appropriate law enforcement officials.
- **Disclosure of Use of Federal Funds:** Organizations which accept federal funds would be required to include a statement of that fact in any advertising intended to promote public support or opposition to any policy of a federal, state, or local government.
- **Effective Date:** States would be allowed to continue the current AFDC program for nine months following the date of enactment.

TITLE IV: Restricting Welfare and Public Benefits for Aliens

- **Legal Immigrants Ineligible for SSI and Food Stamps:** Most legal immigrants would be ineligible for SSI and Food Stamps, including the severely disabled and current recipients after 1/1/97 (narrow exceptions for: certain refugees, asylees and persons whose deportation has been withheld; veterans; and persons who have worked 40 qualifying quarters to be fully insured under title II of the Social Security Act).
- **Legal Immigrants Ineligible at State Option:** States would have the option to deny most legal immigrants assistance under the AFDC, Medicaid, and Social Services block grants, including current recipients after 1/1/97 (subject to the same narrow exceptions above). In addition, state and local governments would have the option to deny most legal immigrants any means-tested benefits they provide, including current recipients after 1/1/97 (subject to the same narrow exceptions above).
- **Future Immigrants Ineligible for Means-tested Programs:** Legal immigrants entering after date of enactment would be ineligible for any federal means-tested program for 5 years after their entry (narrow exceptions for: certain refugees, asylees and persons whose deportation has been withheld; and veterans). The following specific programs would be exempted from this eligibility bar: emergency Medicaid, unless a state decided to deny emergency medical services to these immigrants under the Medicaid block grant; short-term disaster relief; school lunches; WIC; immunizations, and testing and treatment for communicable diseases; foster care (if foster parents are not recent immigrants);

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM - continued

elementary and secondary means-tested programs, and post-secondary programs (e.g., student loans); and other programs at the discretion of the AG if they (i) deliver in-kind services at the community level, (ii) do not condition assistance on individual recipient's income, and (iii) are necessary for the protection of life or safety (e.g., soup kitchens, crisis counseling and intervention, short-term shelter).

- **Deeming:** Deeming until citizenship would be applied to immigrants who signed new legally binding affidavits of support under any federal means-tested program, with the same programs exempted as above, minus the exemption for elementary and secondary means-tested programs. State and local means-tested programs would be allowed to apply the same deeming rules to future immigrants, subject to the same program exemptions as under federal rules.
- **Citizenship and Alien Verification Requirement:** Virtually all federal, state, and local benefit programs would be required to verify the citizenship or alienage status of every applicant, including the school lunch program, WIC, Maternal and Child Health Block Grant, Social Services Block Grant, Head Start, etc., and similar state and local programs. A new definition of "qualified alien" would deny any federal, state, or local benefit to those immigrants not defined as "qualified". The only programs exempted from these new requirements are: emergency Medicaid unless a state decided to deny emergency medical services to these immigrants under the Medicaid block grant; short-term disaster relief; immunizations, and testing and treatment for communicable diseases; certain housing programs if the alien is currently receiving assistance; and other programs at the discretion of the AG if they (i) deliver in-kind services at the community level, (ii) do not condition assistance on individual recipient's income, and (iii) are necessary for the protection of life or safety (e.g., soup kitchens, crisis counseling and intervention, short-term shelter). States would be allowed to opt out of this requirement only through enactment of a state law that affirmatively provided eligibility to such "non-qualified aliens".
- **Reporting Requirement:** State agencies implementing the AFDC block grant and state SSI supplements, the Commissioner of Social Security in carrying out the SSI program, and the Secretary of Housing and Urban Development and public housing agencies, would be required to report to INS information regarding individuals who they know are in the U.S. unlawfully. In addition, no state or local government would be allowed to prohibit any official within its jurisdiction from sending to or receiving from the INS information regarding the immigration status, lawful or unlawful, of an alien in the U.S.

General Note: The Medicaid Block Grant created by the Reconciliation bill would allow states broad latitude in choosing which services to provide (including emergency Medicaid) and which persons to cover (including legal immigrants). Thus, while the Reconciliation bill provides an additional \$3.5 billion for the provision of emergency Medicaid to *illegal aliens* as an incentive to certain states to provide that coverage, the interaction of the block grant provisions with the immigrant eligibility provisions could lead to *legal immigrants* being denied both regular and emergency Medicaid, particularly those future immigrants who are mandated ineligible for

regular Medicaid for 5 years after their entry. This could lead to an acute funding crisis for most public hospitals in communities with large numbers of immigrants.

NGA Modification: The Governors declined to take a position on the noncitizen provisions in the conference agreement. In their February 20th testimony, the Governors suggested that members of Congress would soon be hearing directly from governors concerned about the issue.

TITLE V: Reductions in Federal Government Positions

The Secretaries of Education, Health and Human Services and Labor are required to reduce their Department's workforces by the difference between the number of positions needed to administer the affected programs prior to the effective date of the welfare reform bill and the number required to administer the programs after the effective date. The Secretary of HHS is specifically required to reduce the number of full-time equivalent positions at HHS related to the AFDC program by 245 and the number of managerial positions by 60.

TITLE VII: Child Protection Block Grant Program and Foster Care and Adoption Assistance

- **Foster Care and Adoption Assistance Maintenance Payments:** The conference agreement would retain current law for title IV-E foster care and adoption assistance maintenance payments, continuing them as an open-ended entitlement for eligible children. Under current law the federal government provides a portion of the room and board costs for each eligible child in foster care or in a subsidized adoption. Eligibility is derived from (1) the child's placement in foster care or in a subsidized adoption and (2) from the income of the family from which the child was removed.
- **Child Protection Block Grant:** The agreement would establish a block grant that combines (1) the open-ended entitlement for title IV-E foster care and adoption assistance child placement services, administration and training, (2) the capped entitlement for the title IV-B Part 2 Family Preservation and Family Support Program, (3) the capped entitlement for Independent Living services and (4) discretionary funding for the title IV-B Part 1 Child Welfare Services Program. This block grant includes both mandatory funding and a discretionary component and would be distributed to states according to a formula based on states' past funding under the programs being combined.

In order to be eligible to receive funds, each state must submit a description of its child protection program and must make a series of certifications to the Secretary of HHS. These certifications include that the state has a child abuse reporting law; that a series of procedures are in place for receiving, investigating, and following through on child abuse and neglect reports, that reasonable efforts will be made to address families' problems before children are placed in foster care, and that the state has an independent living program. One of the certifications each state must make is that it is operating its

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

statewide information system, case review system, and preplacement prevention services program "to the satisfaction of the Secretary." No authority is provided, however, by which the Secretary may assess whether states are fulfilling their obligations.

The effective date for the block grant would be October 1, 1995, except that states could choose to continue operating under current law until June 30, 1996.

- **Child Protections:** Language regarding child protections, now contained in sections 422 and 427 of the Social Security Act, would be maintained, although two current-law protections would be eliminated: the requirement that children must be placed in licensed foster homes, and the requirement for fair hearings. There does not appear to be a mechanism through which the protections could be enforced, however. The Secretary would not have the authority to review individual children's records to determine whether the state has complied with protections, nor would she have the authority to review the substance behind state certifications - i.e. a state may certify it has procedures in place, but there is no authority to verify that those procedures have been followed or to take action if they have not.
- **Foster Care Citizen Review Panels:** The bill would require that each state establish at least three citizen review panels to review specific cases in order to determine whether state and local agencies are operating their child protection systems in accordance with their state plan and with their stated child protection standards. These review panels are required to make their findings public, but have no enforcement authority to address inadequacies.
- **Block Grant for Child and Family Services:** The bill would amend the Child Abuse Prevention and Treatment Act (CAPTA) to create a Child and Family Services Block Grant. This block grant to States would replace both titles of CAPTA (including the Basic State Grant program and the Community-Based Family Resource Program), the Adoption Opportunities Act, the Abandoned Infants Assistance Act, the Temporary Child Care and Crisis Nurseries program and the McKinney Act Family Support Centers Program. A small portion of funds would be reserved to support Federal research, demonstration, training and information dissemination activities.

Under the Child and Family Service Block Grant, all of the funds except those reserved for research, demonstration, training and information dissemination, would go in a single block grant to state agencies. Currently, these funds go to a range of local, State and community-based organizations.

Funds under the Child and Family Services Block Grant could be used by States to: improve child protective services systems; support the development and operation of community-based family resource and support programs; facilitate the elimination of barriers to adoption; prevent the abandonment of infants and respond to the needs of children who are drug exposed or inflicted with AIDS; carry out any other activities as

the Secretary determines are consistent with the Act. To be eligible to receive funds, a State must submit to HHS a plan every three years that has the same elements as the plan for the Child Protection Block Grant described above.

Funding would be subject to annual appropriations. \$230 million is authorized for the Child and Family Services Block Grant in FY 1996, and such sums as necessary for fiscal years 1997-2002. For a comparison to actual appropriations levels, the FY 1995 appropriations for the programs combined into the block grant amount to \$117 million, while the House FY 1996 appropriations bill now pending in Congress would provide approximately \$71 million. From the amount appropriated, 1 percent would be reserved to provide grants and contracts to Indian tribes and Tribal Organizations. Twelve (12) percent would be available to support discretionary activities, with 40 percent of this amount targeted to demonstration grants.

- **Data Collection and Reporting:** Current statutory language authorizing the Secretary to collect data is repealed. Instead, the statute specifies a list of case-level data elements that States would be required to submit biannually (the managers' report suggests that this means every 6 months) and aggregate data elements that they would be required to submit annually, with an option for States to collect the data from samples. Some provision is made for the collection of additional information required by the Secretary and agreed to by the majority of the States and for ensuring a smooth transition from current data collection under the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS).
- **Discretionary Activities:** Funded through a 12 percent set aside in the Child and Family Services Block Grant, the bill would authorize the Secretary to award grants and contracts to conduct research, demonstration projects, training programs and to operate a clearinghouse on child abuse and neglect. Permissible demonstration projects include adoption opportunities projects and family resource programs. Under likely appropriations scenarios, the funds available for all discretionary activities would be approximately \$8 million, of which \$3 million would be targeted to demonstration projects. By comparison, current discretionary spending totals approximately \$61 million under the legislative authorities combined into this block grant.
- **National Random Sample Study of Child Welfare:** This Department is required to conduct this specific study, for which \$6 million per year in mandatory funding is provided. Language describing the study is the same as was included in the House bill.
- **Interethnic Adoption:** As in the House bill, the Metzenbaum Multiethnic Placement Act is repealed and reformulated. These provisions prohibit states from denying or delaying foster care or adoptive placements on the basis of race, color, or national origin. Replacement language eliminates provisions in the current law that (1) allow states to consider the "the cultural, ethnic, or racial background of the child and the capacity of

SUMMARY OF PROVISIONS: CONFERENCE AGREEMENT ON WELFARE REFORM -- continued

the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child," and (2) that require states to make diligent efforts to recruit adoptive families that reflect the diversity of children needing adoptive families. The penalty for noncompliance with the reformulated provision is 10% of the Child and Family Services block grant to the state.

- **Additional Reauthorizations:** The bill would reauthorize the Family Violence Prevention and Services Act, Missing Children's Assistance Act, and grants for improving investigation and prosecution of child abuse. In addition, the authorization for Children's Advocacy Centers, contained in the Victims of Child Abuse Act, is extended.

NGA Modification: Would maintain the open-ended entitlement for foster care and adoption assistance administration and training, as well as maintenance payments. Would allow a State to receive foster care, adoption assistance and independent living funding as a block grant (mandatory funding) adjusted based on the average national caseload growth rate. States would be able to transfer any amount from this capped entitlement into the child protection block grant for activities such as early intervention, child abuse prevention and family preservation. States electing the block grant would be required to maintain current law protections and standards and to maintain fiscal effort at the level of the year prior to election of the block grant option.

NGA Modification: Would create a Child Protection Block Grant (mandatory funding) from the remaining child welfare, family preservation and child abuse prevention and treatment programs (including CAPTA). States would be required to maintain current law protections and standards under the block grant.

TITLE VIII: Child Care

- **Block Granting HHS Child Care Programs:** The three child care programs authorized under Title IV-A of the Social Security Act would be repealed. These are: 1) AFDC/JOBS Child Care program, an entitlement program which guarantees child care assistance to AFDC families who are working or in training; 2) Transitional Child Care program, an entitlement program which guarantees child care assistance for up to 12 months to AFDC recipients who earn their way off the welfare rolls; and 3) At-Risk Child Care program, a capped entitlement which provides child care assistance to families at risk of becoming welfare dependent.
- **Funding:** Under the Child Care and Development Amendments of 1995, from FY 1997 through 2002, \$6 billion in discretionary funding and \$10 billion in mandatory funding would be available for child care assistance for working poor families as well as families on Temporary Assistance, transitioning off or at-risk for welfare dependency.

Discretionary funding of \$1 billion per year for six years would be allocated based on CCDBG formula. Each state would also receive the amount of funds it received for child care under all the child care entitlement programs currently under Title IV of the Social Security Act (AFDC Child Care, Transitional Child Care and At-Risk Child Care) in the 1994 fiscal year, or the average amount of funds received for these programs from FY 1992-FY 1994, whichever is greater. The programs combined provided approximately \$990 million in mandatory child care funding for the states. The mandatory funds remaining after state allocations would be distributed among the states based on the formula currently used in the Title IV-A At-Risk Child Care grant. States must maintain 100% of state effort and provide matching funds in the amount of the FY 1994 state Medicaid rate to receive these additional funds.

NGA Modification: Would provide an additional \$4 billion in child care funding (for a total increase of \$5.9 billion over 6 years); States would not be required to put up a State match or maintain their FY 1994 level of child care spending in order to access the additional \$4 billion.

- The health and safety protections and specific consumer education to parents on licensing and complaint procedures in CCDBG are eliminated. The targeted quality set-aside is reduced to 3 percent of total funds available and the tribal set-aside is reduced to 1 percent of the total.
- The conference agreement eliminates the flexibility that the Senate amendment would provide to states to help parents with young children meet the work participation. It would eliminate the state option to exempt parents with children under one from working, and the option to allow parents with children under six to work part-time.

ADMINISTRATION CONCERNS w/NGA

Talking Points
NGA Resolution on Welfare Reform
February 6, 1996

As the President said in his speech to the NGA this morning, real welfare reform must require work, promote family and responsibility, and protect children. The governors' resolution reinforces what the President has said all along -- that the conference report he vetoed fell short of real welfare reform, and must be improved.

The Administration is pleased with the NGA's recommendations in several areas of promoting work and protecting children -- substantial increase in child care funds, a better contingency fund, a substantial performance bonus, equal treatment for recipients, reductions in the overall level of savings, provisions on SSI children's disability programs, increasing the hardship exemption, improving the work requirements, and making the family cap a state option. The Administration continues to have serious concerns about other important issues -- including child welfare, Food Stamps, school lunch, maintenance-of-effort, and benefits for legal immigrants.

The NGA resolution suggests valuable improvements over the conference report and the Senate bill in several key areas that are priorities for the President:

Child Care -- The NGA resolution calls for adding \$4 billion for child care to the conference report, which is \$5 billion more than the Senate bill. Senator Dole acknowledged the need for more child care money in his speech to the NGA this morning. The Administration believes, however, that states should match this additional child care funding, and maintain current quality standards.

Contingency Fund -- The NGA called for doubling the contingency fund to \$2 billion, and providing an additional trigger based on Food Stamps population. The Administration has made additional suggestions to strengthen the countercyclical mechanism of this provision.

Performance Bonus -- The NGA endorsed additional funding for a 5% performance bonus to reward states that meet the work requirements -- a key provision that the President has long championed and that was a centerpiece of the Daschle-Breaux-Mikulski bill. This is a significant improvement over both the conference report and the Senate bill.

Equal Treatment -- The NGA resolution includes an important requirement that was not in either the conference report or the Senate bill, to ensure that states set forth objective criteria for the delivery of benefits and fair and equitable treatment.

SSI Disabled Children -- The NGA resolution adopts the SSI children provisions of the Senate bill, but moves back the effective date a year, to 1998.

The NGA resolution recommends other important changes that are similar to the Senate bill:

Work Requirements -- The NGA resolution adopts work requirements and state flexibility similar to the Senate bill, which will somewhat reduce state costs of running work programs.

Hardship Exemption -- The NGA resolution endorses the 20% hardship exemption in the Senate bill for recipients who reach the five-year limit. The conference report had reduced this provision to 15%.

Family Cap -- The NGA resolution endorses the Administration policy that states should decide for themselves whether to limit benefits for additional children born to parents on welfare. Like the Senate bill, the NGA would make the family cap a state option -- rather than a mandatory provision with an opt-out, as the conference report included.

Overall Savings -- The NGA resolution cuts more deeply into Food Stamps than the Administration's balanced budget plan -- at levels deeper than the Senate bill. Because the NGA resolution calls for additional spending on child care, the contingency fund, and the performance bonus, its overall net savings are slightly below the Senate bill but still considerably higher than the Administration's balanced budget plan.

The Administration continues to have serious reservations about some other provisions in the NGA resolution:

Child Welfare -- The Administration has strongly opposed block granting child welfare. The Senate bill maintained current law in this area. The NGA resolution would allow states the option to block grant certain programs.

Food Stamps -- The NGA resolution fails to criticize certain Food Stamp provisions of the conference report which the Administration has strongly opposed, including the state option to block grant Food Stamps and the arbitrary cutoff of able-bodied childless adults.

School Lunch -- The Administration has strongly opposed block granting the school lunch program. The NGA resolution would maintain the entitlement for children, but block grant administrative costs.

Maintenance-of-Effort -- The NGA resolution is silent on the issue of maintenance-of-effort. The Administration strongly favors the Senate provision of 80% maintenance-of-effort, rather than the 75% requirement in the conference report. In addition, the Administration opposes the Conference provisions that enable states to transfer funds out of the block grant for other purposes.

Immigrants -- The NGA resolution is silent on the question of benefits for legal immigrants. The Administration's balanced budget plan requires deeming until citizenship. The

Administration strongly opposes the level of immigrant cuts in the conference report and the Senate bill.

Medicaid -- While details have not yet been provided, the NGA resolution on Medicaid suggests that welfare recipients should continue to be guaranteed health coverage. The Senate bill maintains this link between welfare and Medicaid, but the Conference report broke it.

February 7, 1996

**Policy Concerns in NGA's Modifications to the
Conference Agreement on H.R. 4**

Child Protection

1. The bill allows states the option to block grant foster care, adoption assistance, and independent living assistance. This provision was not included in the Senate bill.
2. Eligibility for federal matching funds for foster care and adoption assistance maintenance payments is based on pre-welfare reform AFDC criteria which is likely to be burdensome to states unless additional flexibility is provided.

Medicaid

1. The NGA proposal would not maintain medical assistance coverage for those currently eligible, especially mothers (non-pregnant) and teenage children.

Food Stamps

1. The bill would make deep cuts in food stamp benefits over seven years. The level of the cuts are much deeper than the President indicated he would accept. A big portion of these cuts results from reductions in the maximum allotments, immigrant provisions, counting energy assistance as income, and freezing the standard deduction.
2. The bill provides states an option to replace the Food Stamp Program with a block grant: if the state has fully implemented an Electronic Benefit Transfer (EBT) system, has a payment error rate less than 6 percent, or pays the federal government the difference between their error rate and 6 percent. Many states may initially take the block grant, but then switch back to the current structure when it is beneficial to them.
3. The bill places severe time limits on food stamp recipients aged 18-50 without children -- without requiring states to provide sufficient work and training opportunities.

Transfers

1. The modifications maintain the provision that allows states to transfer 30 percent of their TANF dollars to the SSBG, the CCDBG, and the child protection block grant.

Contingency Fund and Other Funding Issues

1. The level of the base block grant is not adjusted for inflation or changes in need due to economic or demographic conditions.
2. The bill provides no contingency funds for the fiscal years after 2001.
3. The contingency fund is set at too low a level--\$2 billion over five years. By contrast, during the last recession, benefit payments rose from \$17.2 billion in 1989 to \$21.9 billion in 1992 -- or \$4.7 billion over 3 years. The provision in the Senate bill, which required states to maintain 100 percent of their 1994 state funding levels for income support, work, and child care in order to qualify for contingency fund, is eliminated.

4. The contingency fund trigger provision is poorly designed. A state whose unemployment rate rose and remained high would not be eligible for dollars.
5. The food stamp trigger is set at too high a level.
6. Loans from the loan fund must be repaid with interest within three years, making them of limited use to states experiencing recessions.
7. No supplemental grant funds are provided for fiscal years after 2000, which could result in a loss in funding for many states.

Maintenance of Effort

1. The maintenance of effort standard is set at 75 percent, as opposed to 80 percent in the Senate bill and 90 percent in the Breaux amendment supported by the Administration.
2. States can count toward the maintenance of effort requirement any spending under the program reasonably calculated to accomplish the purposes of part A of the Social Security Act (as amended); this language is much too broad. States can also count spending on child welfare, juvenile justice, and other sources if they previously have been drawing down EA funds for such services.

Child Care

1. The bill repeals all federal requirements for states to establish health and safety regulations.
2. The bill reduces the quality set-aside to 3 percent.
3. The bill provides no child care guarantees to individuals who are participating in work or training programs or those who have left welfare for work.
4. It is not clear whether States would be required to maintain their FY 1994 level of child care spending in order to qualify for funding from the new \$4 billion pool of Federal funding.

Cash Assistance Eligibility

1. The bill explicitly ends the individual entitlement to assistance.
2. The bill explicitly gives states the authority to treat recent arrivals from another state differently from other residents, which raises both constitutional and equity questions.
3. States are prohibited from disregarding SSI or foster care payments in determining cash assistance eligibility or benefit level, which could force a family to use part of a child's SSI payment to meet the needs of other family members

Prohibitions

1. The bill establishes a five-year time limit on cash assistance with no required exemptions.
2. Receipt of noncash assistance (including child care) would count toward the five-year time limit.
3. The bill allows States to deny assistance (both cash and noncash) to minor mothers and their children.

Work Program

1. The bill does not provide adequate resources for states to meet the work participation requirements as currently defined.
2. The bill contains a provision that allows states to reduce their participation rate by lowering their caseload below 1995 levels.
3. The participation rates for two-parent households contained in the bill are unrealistically high.
4. The bill does not allow education for teen parents enrolled in high school to count towards the participation requirement.

Performance Bonus

1. While providing a 5 percent increase in the a state's block grant when performance standards are exceeded, the performance measures in the proposal contain no mechanisms to "level the playing field" -- that is, adjust for differences in demographic and economic conditions across states. This means states will be rewarded for having a good economy -- rather than operating an effective work program.
2. Some of the measures reward states for undesirable outcomes -- such as cutting recipients off the rolls.

Illegitimacy Bonus

1. The bill maintains the provisions for the illegitimacy bonus.

SUMMARY OF ADMINISTRATION PROPOSAL

SUMMARY OF PROVISIONS
President's Budget -- Welfare Reform Subtitles

Subtitle A: Temporary Employment Assistance (TEA)

- **Overall Structure of Program:** AFDC and JOBS would be eliminated and replaced with the Temporary Employment Assistance (TEA) and Work First programs. The TEA program would be an uncapped entitlement to provide cash benefits to eligible families with needy children (as defined by the State). The Work First block grant would be a capped entitlement to cover the cost of administering the cash benefit program, delivering emergency assistance and providing job placement, job training and other employment services to TEA recipients. In other words, AFDC administration, JOBS and Emergency Assistance would be consolidated into the Work First block grant. The definition of emergency assistance would be identical to that under current law except that benefits and services to children in the juvenile justice system would be explicitly excluded.
- **Federal Funding:** States would be reimbursed for spending on cash benefits under TEA at the Federal Medical Assistance Percentage (FMAP, or Medicaid match rate), without limitation.
- **Individual Entitlement:** A family with one or more children defined as needy by the State (or, at State option, a pregnant woman) would be eligible for cash assistance under the TEA program. All individuals wishing to apply would be guaranteed the opportunity to do so, and the State would be required to provide assistance to eligible applicants with reasonable promptness.
- **State Plan:** A State would be required to submit to the Secretary of Health and Human Services a plan for its Temporary Employment Assistance program. If not rejected within 120 days, the plan would be considered approved. The program would have to serve all areas of the State, although it would not have to be administered uniformly throughout. A State would be required to designate a single State agency to administer the plan.
- **Eligibility Criteria/Benefit Determination:** States would have almost complete discretion with respect to eligibility criteria, benefit levels, treatment of income and resources and work program structures. States would have to establish need and payment standards, specify resource limits and income disregard policies and would be required to treat comparable families similarly with respect to determining eligibility and benefits. Individuals would have the right to a fair hearing if an application for assistance was denied or not acted upon with reasonable promptness.

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

- **Other Programs:** As part of its TEA plan, a State would be required to operate a Work First program, either a workfare or job placement voucher program (but not both), a child support enforcement (CSE) program, a Title IV-B child welfare program and Title IV-E foster care and adoption assistance programs. The agency administering the TEA program would be required to refer paternity establishment and child support cases to the CSE program within 10 days of the application for cash assistance.
- **Two-Parent Families:** A State would in general be required to treat two-parent and one-parent families equally with respect to eligibility for assistance. A State would, however, be permitted to impose special eligibility restrictions on two-parent families, to the extent these limitations were no stricter than those in effect in the State in FY 1995.
- **Penalty for States:** If a State failed to comply with a required provision of the State plan, the Secretary of HHS would withhold Federal payments for the State's TEA program (or, at the Secretary's discretion, payments for the relevant category or categories of the program) until the failure to comply ceased.
- **Time Limits:** A family with an adult recipient would be eligible for a maximum of 60 months (cumulative) of aid under the plan. Exemptions would be granted for families which (1) lived in areas with an unemployment rate greater than 8 percent; (2) at the option of the State, had an individual who was working 20 hours per week (or more, again at State option); (3) had a parent who was under age 18 (19 at state option) and was making satisfactory progress in a school setting; (4) had a parent who was exempt from the work requirement (see Subtitle C provisions below); or (5) had no adult recipient. In addition, a State would be permitted to exempt an additional 15 percent of the caseload for hardship circumstances other than those specified. A State would be permitted, in lieu of granting exemptions under (1) and (2), to exempt up to 20 percent of caseload (as opposed to 15). Families denied cash assistance due to the 60-month time limit would be considered eligible for and receiving aid for purposes of determining eligibility for and the amount of benefits under other Federal and federally-assisted programs.
- **Child Voucher:** The state would be required to provide any family ineligible for assistance due to the time limit or a sanction (see description of sanctions below) with a voucher equal in value to the children's share of the benefit. The voucher would be payable to third parties for shelter, goods and other services for the children.
- **Family Cap:** States would have the option to implement a family cap, which would apply to children conceived and born while the parent was on assistance. Children denied cash assistance due to a family cap would remain eligible for Medicaid and the

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

State could provide assistance in the form of vouchers usable only for goods and services for the excluded child.

- **Personal Responsibility Agreement:** A parent would be required to enter into a Personal Responsibility Agreement within 30 days (90 days at State option) of the approval of the application for assistance or, in the case of existing recipients, within 90 days of the effective date of the legislation (180 days at State option). The Personal Responsibility Agreement, which would be based on an assessment of the parent's skill, work experience and employability, would establish a plan for moving the individual into private sector employment and would outline his or her obligations. Activities required as part of the Agreement could include participating in the Work First program, keeping children in school, ensuring that children's immunizations were up-to-date, attending parenting and money management classes, or any other activities (at the discretion of the State). In addition, a parent would be required under the Agreement to assign any support rights to the State and to cooperate with the State in establishing paternity (if applicable) and collecting support.

The Agreement would also specify the services to be provided by the State to enable the individual to find and retain private sector employment.

- **Job Search:** Recipients who were not working full-time in unsubsidized jobs would be required, under the Personal Responsibility Agreement, to engage in job search as a condition of eligibility.
- **General Work Requirements:** The State would be required to enroll in work adult recipients who had received assistance for 24 months (as defined by the State). In addition, the State would be required to, beginning in FY 2004, place in the Work First program nonexempt recipients who had not found work within one year of signing a Personal Responsibility Agreement. These general requirements are separate from the work participation rates in Subtitle C (described below).
- **Penalties for Recipients:** An unemployed recipient refusing to look for work would not be eligible for assistance, in the case of the first refusal, until the individual began to look for work and, in the case of a second or subsequent refusal, for 6 months or until the individual began to look for work, whichever was later. Similarly, an unemployed recipient refusing to accept a job offer would not be eligible for assistance until the individual accepted a job, in the case of a first refusal and, in the case of a second or subsequent refusal, the later of 6 months or the date the individual began work.

A State would determine the sanctions for failing to comply with a Parent Empowerment Contract (e.g., failing to participate in a required activity), with the

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

stipulation that such sanctions could not be stricter than the sanctions for refusing to look for work or take a job (described above).

- **Optional Diversion Program:** A State would have the option to provide a lump sum payment of up to 3 months worth of benefits to eligible families in order to divert such families from the temporary assistance program. This lump sum would be in lieu of monthly benefits--a family receiving such a payment would in general not be eligible for cash assistance during the period for which the lump sum payment was made.
- **Restrictions on Eligibility:** Persons receiving SSI or old-age assistance and children for whom foster care or adoption assistance payments were made would be ineligible for assistance under the TEA program. Their income and resources would in general be disregarded in determining the eligibility of a family applying for assistance. Persons convicted of benefit fraud, fugitive felons and parole/probation violators would also be ineligible for assistance.
- **Quality Assurance:** A quality assurance system would be developed by the Secretary, in consultation with the States and other interested parties, which would determine the amount of disallowances (if any) to be repaid due to erroneous payments by the State. The system would include measures of program outcomes related to self-sufficiency.
- **State Reporting Requirements:** States would be required to submit a quarterly report to HHS containing data on the number and characteristics of cash assistance applicants and recipients (e.g., marital status, educational attainment, work experience, amount of assistance and reason for any reduction in such amount, participation in other Federal and State programs for low-income persons, consecutive and cumulative time on assistance, citizenship status). The report would also include the percentage of Federal funds used for administrative costs, total State spending on programs for needy families and the amount of child support collected.
- **Annual Report to Congress:** The Secretary would be required to submit an annual report to Congress describing State TEA programs.
- **Research, Demonstration and Evaluations:** Point one nine percent (.19%) of total TEA funding would be set aside for research, demonstrations and evaluations.
- **Puerto Rico:** The cap on payments to the Virgin Islands under Section 1108 of the Social Security Act (applying to cash assistance, foster care and adoption assistance, Supplemental Security Income and other programs) would be increased from \$2.8 million to \$3.5 million, while the cap for Guam would be increased from \$3.8 million to \$4.75 million. The caps would be adjusted for inflation using the Consumer Price Index.

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

- **Effective Date:** The effective date for the legislation would in general be October 1, 1996.

Subtitle B -- Make Work Pay

- **Transitional Medicaid Benefits:** Make permanent the provision that extends Medicaid eligibility for 12 months to persons who leave AFDC due to employment. Under current law this provision would expire September 30, 1998.
- **Notification of the Earned Income Tax Credit:** Require states to notify all applicants for and recipients of Temporary Family Assistance, food stamps, and Medicaid of the existence and availability of the Earned Income Tax Credit.
- **Advance EITC Payment Demonstrations:** Allow the Secretary of the Treasury to designate up to 4 states to establish demonstrations where a state agency would administer advance payment of the EITC.
- **Consolidated Child Care Development Block Grant:** This bill would integrate the existing welfare related child care programs into the Child Care and Development Block Grant (CCDBG). It would authorize discretionary appropriations of \$2 billion for fiscal year 1996, and such sums as may be necessary for fiscal years 1997 through 2002. An additional \$11.7 billion in entitlement matching funds to States would be authorized.

Child care would be guaranteed to individuals participating in an approved education or training activity, to families eligible for Temporary Employment Assistance who require child care to work, and to families transitioning off assistance.

The State quality set aside would be maintained at 10 percent; and the Secretary would be required to establish a quality improvement initiative that would make additional funds available to States for innovative teacher training programs, enhanced child care quality standards and enhanced licensing and monitoring procedures. Tribal grantees would be assured of 3 percent of the block grant funds.

Subtitle C -- Work First

- **Work Program:** States would be required to operate a Work First Program and either a workfare or job placement voucher program. Individuals would be required to work after receiving assistance for two years.
- **Funding for the Work Program:** The work program would be funded as a capped entitlement. Work program dollars could also be used for administrative expenditures,

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

expenditures that are currently covered by the EA program, or child care programs established by the bill. The match rate would be 60 percent or FMAP, whichever is higher. The amount of federal dollars available for the work program would be set at: \$2.9 billion in FY 1997; \$2.95 billion in FY 1998; \$3.1 billion in FY 1999; \$3.35 billion for FY 2000; \$3.7 billion in FY 2001; and \$3.75 billion in FY 2002 and each subsequent year (adjusted for inflation).

- **Work Requirements:** There is one participation rate for all families. These monthly rates are:
FY 1997: 30%
FY 1998: 35%
FY 1999: 40%
FY 2000: 45%
FY 2001+: 50%

Individuals in the Work First, workfare, or job placement voucher program would count towards the participation requirement. Individuals who leave welfare for work for 6 months and those undergoing a sanction would also count toward the work requirement. Individuals would be required to participate at least 20 hours per week in FY 1997 and 1998, 25 hours per week during FY 1999; and 30 hours per week in every subsequent year. Recipients with children 5 and under would not be required to participate more than 20 hours per week.

- **Exemptions from the Work Program:** States may exempt from their work program recipients who are: ill, incapacitated, or of advanced age; responsible for a child under the age of one (or 6 months at state option); in the case of a 2nd or subsequent child born during such period, responsible for a child under the age of 3 months; pregnant in the third trimester; caring for a family member who is ill or incapacitated; or has a demonstrated inability (as determined by the state) to obtain child care.
- **Work Activities:** In the Work First program, states would be required to provide education, training, job search and placement, temporary subsidized job creation, and work supplementation. States would be given the option to offer a number of services including: a "revamped" JOBS program (based on the model used in Riverside, CA), use of placement firms, temporary subsidized job creation, microenterprise, and work supplementation. In the workfare program, states would be required to provide community service jobs -- either jobs provided by the state or jobs with other employers where all or part of the wages would be paid by the state. States would have the option of providing jobs through temporary subsidized job creation, work supplementation, and the use of the placement companies. A minimum of 5 hours per week would be required in job search. An individual could receive no more than 3 community service jobs under the program. A job placement voucher program would

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

offer job vouchers to be used in obtaining employment. The voucher would be equal to 50 percent of the AFDC grant for 12 months. Vouchers could be redeemed by an employer after the individual had been employed by the employer for six months.

- **State Penalties:** States would be subject to up to a 5 percent reduction in their federal TEA payments for not meeting the work requirements.
- **Performance Bonuses:** The bill provides \$800 million over 5 years to provide performance bonuses to states (bonuses would not be funded by work program dollars). The Secretary, in consultation with states and other interested parties, would be required to develop a system of performance measures and bonuses that rewards states that operate effective work programs.

Subtitle D -- Family Responsibility and Improved Child Support Enforcement

- **Paternity Establishment:** Welfare recipients must cooperate with paternity establishment efforts under a strict cooperation requirement. The process for establishing paternities is streamlined and in-hospital paternity establishment is expanded.
- **Centralized Registries and Collections:** Central state case registries for child support orders would be created, as would state directories of new hires. Collection and disbursement of support payments within each state would also be centralized.
- **Interstate Enforcement:** The Federal Parent Locator Service would be expanded to provide greater access to data and to create a national directory of new hires that could track delinquent parents across state lines. States would be required to adopt the Uniform Interstate Family Support Act to expedite the enforcement of interstate cases.
- **Other Enforcement:** Additional enforcement provisions include: (1) the suspension of occupational, professional, and driver's licenses; (2) expanded use of liens; (3) the voiding of fraudulent transfers; (4) denying passports; and (5) international child support enforcement.
- **Collections to Families:** For families who have left welfare, child support collections would be distributed to the family first, instead of the state.

Subtitle E -- Teen Pregnancy and Family Stability

- **Minors Must Live at Home:** Minor parents would be required to live in an adult supervised environment as a condition of receiving temporary employment assistance. The benefits (where possible) on behalf of the minor parent and child would be

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

provided to the adult providing supervision. The State agency would assist the minor parent in obtaining an adult supervised living arrangement. If the State agency determines that there is no appropriate environment available or that the physical or emotional health of the minor parent or child would be jeopardized by living in the available environment, the State may waive the requirement and provide comprehensive case management, monitoring and other necessary social services.

- **National Clearinghouse:** The Secretary of Health and Human Services would establish A National Clearinghouse on Adolescent Pregnancy. This clearinghouse would serve as a national information and data clearinghouse, as a training, technical assistance and material development source for adolescent pregnancy prevention programs including, but not limited to, abstinence programs.
- **Options for Minors School Attendance:** Minor parents (or parent under 19 at the option of the State) would be required to participate in educational or training activities. States would have the option to provide additional incentives and penalties to encourage teen parents to complete high school and participate in parenting activities.

Subtitle F -- SSI

- **Drug Addicts and Alcoholics:** No future SSI applicants would be eligible for benefits if an addiction would be material to the finding of disability. Current recipients with such an addiction would retain benefits through calendar year 1996, after which both SSI and Medicaid would be terminated. The Social Security Administration would be required to notify within 90 days after enactment those recipients whose benefits would be discontinued after 1996. Funding for additional substance abuse treatment in the amount of \$50 million per year in fiscal years 1997 and 1998 would be added to the Substance Abuse Prevention and Treatment Block Grant.

Subtitle G -- Food Assistance

- **Maintains the Nutritional Safety Net:** The national nutrition safety net for the Food Stamp Program and Child Nutrition programs would be maintained, enabling them to respond to the changing circumstances of families and children they serve.
- **Food Stamp Program:** Benefits would continue to be indexed for inflation. All energy assistance would count as income. Adults aged 18 to 50 with no dependents would be made ineligible for food stamps after six months of each year unless they work 20 hours a week or participated in workfare or training, although eligibility would continue if a state fails to supply a training or workfare slot. New integrity

SUMMARY OF PROVISIONS: WELFARE REFORM SUBTITLES

measures crack down on fraudulent food stamp trafficking and reduce program waste.

- **Child Nutrition:** Food subsidies for Family Day Care Homes would be better targeted.

Subtitle H -- Treatment of Aliens

- **Deeming Until Citizenship:** Deeming of income and resources under the new TEA, SSI, and Food Stamp Program would be extended through the date (if any) on which an alien becomes a citizen of the U. S. Exceptions to this extension would occur if the alien was: age 75 or over with five years residence, a veteran or on active duty in the U.S. Armed Forces (or is the spouse or child of such individuals), is the subject of domestic violence by a family member, or has paid Social Security or income taxes in 20 different calendar quarters (or whose parent or spouse had paid taxes).
- **Sponsors:** A sponsor's affidavit of support would be executed as a contract which is legally enforceable by federal, state, and local governments for not more than five years after an alien last receives any cash benefit. A sponsor's liability would be eliminated if the immigrant becomes a citizen, veteran (or spouse or child), or has paid Social Security taxes in 20 different quarters. After enactment, all immediate relative, family-sponsored, and diversity immigrants would be required to submit affidavits of support as a condition of entry.
- **Uniform Standard of Eligibility:** Establishes a uniform standard of eligibility for aliens under the TEA, SSI, and Medicaid programs.

Subtitle I -- Reduction in Title XX Block Grants to States for Social Services

- **Title XX:** Annual funding for the title XX block grant would drop from \$2.8 billion to \$2.52 billion over FY 1995, reducing state resources under this program by 10 percent.

SUMMARY/ANALYSIS OF
CONFERENCE REPORT

Summary of Conference Agreement on H.R. 4

Inadequate Support for Needy Families

- By FY 2002, the conference agreement would result in approximately an 18 percent reduction in total spending on families with children relative to current law.

Nutritional Safety Net Eroded

- The optional Food Stamp block grant contained in the conference agreement would weaken the national nutrition safety net and eliminate the program's ability to respond to economic changes.

Child Protection and Adoption Programs Block Granted and Cut

- At a time when GAO and other sources report that resources are failing to keep pace with the needs of a national child protection system in crisis, the conference agreement would repeal a number of child protection guarantees for abused, neglected and abandoned children, and children in need of adoption or foster care, and would establish a block grant for the states.

Reduction for Children with Disabilities Reduced

- The conference agreement would reduce benefits to a significant number of children by establishing a two-tiered benefit structure. As a result, cuts to the SSI program for disabled children would be increased significantly over the Senate bill -- by more than \$3 billion over seven years.

Reduction in Resources for Child Care and Safety for Children

- The conference agreement would over seven years provide about \$13 billion less (according to HHS estimates and over \$6 billion less according to CBO estimates) for child care services that are required to meet the bill's work requirements and maintain current law levels of child care for low income working families. It would also eliminate the child care health and safety protections contained in current law and retained in the Senate bill.

Exemptions from the Time Limit Reduced and More Children Denied Benefits

- The conference agreement would reduce the number of recipients that states may exempt from the five year time limit from 20 percent in the Senate bill to 15 percent.

Maintenance of Effort Reduced, Leaving Less Money for Moving People Off Welfare

- Compared to current law, states would be allowed to reduce their spending for family support payments, child care, and child protection by a total of approximately \$45 billion based on CBO estimates.

Less Protection During Economic Downturns

- The Administration and the NGA have consistently pointed out the inadequacies of the Senate contingency grant fund to respond to the changing demand for assistance within states, including natural disasters, changes in child poverty, and demographic and population changes.

Reduced Benefits for Legal Immigrants. Higher Costs for States

- Over 1 million *legal* immigrants would be denied SSI, Food Stamps, AFDC and Medicaid under the conference agreement, more than under the Senate bill.

Punitive Child Support Provisions

- States would no longer be required to pass-through the initial \$50 in child support payments to families on welfare, potentially reducing assistance to children by \$1.2 billion over seven years.

January 11, 1995

Policy Issues in the Conference Agreement on H.R. 4

TITLE I

Contingency Fund

- Neither the conference agreement nor the Senate bill provides an adequate contingency fund. During the last recession, spending on AFDC benefit payments rose from \$17.2 billion in 1989 to \$22.3 billion in 1992—a \$5 billion increase. The Administration recommended (in the letter from Secretary Shatala to the welfare bill conferees) that the contingency fund be increased from \$1 billion over seven years, the level in the Senate bill, to \$1.8 billion and that during national recessions states be permitted to draw down matching dollars even if the fund were depleted. The conference agreement, however, allocates only \$1 billion over five years for the fund, on the grounds that Congress could replenish the fund in “times of severe economic distress.” It is far from certain, however, that additional funds could or would be appropriated for the contingency fund during a national recession, when there would be competing demands for federal help from more powerful constituencies.
- The Administration also recommended that states experiencing particularly severe economic conditions be permitted to draw down contingency dollars even if the fund were exhausted and there were no nationwide recession. The conferees expressed concern that such a provision would “reduce pressure on states to budget wisely and to reserve part of their block grant for times of economic distress.” The level of funding provided for work activities and child care in the conference agreement, however, is not adequate to meet the ambitious work participation rates established by the legislation. Consequently, it is unclear how many states will have unspent block grant funds to reserve for future years. The absence of adequate contingency fund dollars may well force States to drop families from the rolls during recessions, when need would be the greatest.
- Finally, neither the conference agreement nor the Senate bill makes contingency fund dollars available to states whose unemployment rates rise and then remain high. Under both bills, the trigger for the contingency fund is an unemployment rate that is both high and rising. The Administration recommended use of a trigger based on a better measure of economic need among low-income families, such as the number of children receiving food stamps (provided that food stamps remained a uniform national program). The conference agreement does not address this recommendation.

Maintenance of Effort

- The maintenance of effort standard in the conference agreement is set at 75 percent, as opposed to 80 percent in the Senate bill, allowing states to reduce their spending on cash assistance, work activities and child care by an additional \$5 billion over seven years. In addition, under the conference agreement, the maintenance of effort standard can be further reduced by up to 8 percentage points (down to 67 percent) for outstanding performance or improvement in performance in one or more of several categories. A state, especially one with a relatively high benefit level, could improve its performance in at least two and possibly three of the categories simply by cutting the benefit level.
- Under both the Senate bill and the conference agreement, states would be permitted to count toward the maintenance of effort requirement any spending under the program reasonable

calculated to accomplish the purposes of part A of the Social Security Act (as amended). This language is much too broad and would make the maintenance of effort provision rather difficult to enforce. The Administration recommended that the conferees drop this language, but it is retained in the conference agreement.

Transfers

- Unlike the Senate bill, the conference bill allows states to transfer up to 30 percent of the cash assistance block grant to the child care, child protection, or the Social Services Block Grant. This would enable states to further diminish the funds they dedicate to the financial support of low-income families.

Medicaid

- The conference bill eliminates categorical Medicaid coverage for low-income families with children on cash assistance. The Senate bill preserves this entitlement.

Prohibitions

- The conference bill imposes a family cap (with an opt-out provision). The family cap is left to the discretion of the state in the Senate bill.
- Hardship exemptions are limited to 15 percent of the caseload in the conference bill, as opposed to 20 percent in the Senate bill. To improve on the Senate bill, states should be given flexibility to exempt parents of disabled children on SSI from the time limit, and these exemptions should not be counted against the hardship exemption limit.

Work Participation Issues

- The conference bill does not provide adequate resources for states to meet the work participation requirements as defined in the agreement. The conference bill requires more recipients to work than the Senate bill (a 60 percent increase), but does not provide states with any additional resources to meet these requirements. Specifically, the conference bill does not count those who leave welfare for work in the work participation rate for six months and does not give states the option to limit the work requirement for single parents with children under six to 20 hours per week. Both these provisions were included in the Senate bill.
- The work requirements in the Senate bill could be improved by eliminating the provision which allows states to reduce their participation rate by lowering their caseload below 1995 levels, by reducing the unrealistically high participation rate for AFDC-UP families, and by allowing teen parents enrolled in high school to count toward the participation requirement.

Performance Bonus Issues

- The performance incentive in the conference agreement consists of a reduction in the maintenance of effort, rather than a bonus payment as the Senate bill did.
- The Senate bill could be improved by not rewarding states for undesirable outcomes -- such as cutting recipients off the rolls.

TITLE II

SSI for Children with Disabilities

- The Senate passed version would pay cash benefits to all children who meet the new definition of disability. The conference agreement, on the other hand, would reduce cash benefits by 25 percent for as many as three-fourths of the severely disabled children who meet the new definition of disability. This reduction would apply to all disabled children except those who need personal assistance. The Administration is opposed to the conference agreement provision of a two-tiered benefit rate for children because such a provision would be punitive to some of our most vulnerable children. The low income parents of all these children experience special costs (e.g., medicines, medical equipment, home rehabilitation, special diets, physical therapy and special clothing) and reduced employment opportunities because of their responsibility for their children, and this reality needs to be reflected by legislation that does not create tiered benefit levels.
- To improve on the Senate bill, we would recommend making the new definition of disability applicable on a prospective, rather than retrospective, basis (i.e., for new applicants only). In addition, the effective date does not give SSA sufficient lead time to implement the law.

TITLE IV

Immigrant Eligibility Issues

- The Conference bill makes most legal immigrants ineligible for SSI and Food Stamps, even severely disabled children and adults, and elderly immigrants, who have never had a sponsor and have no other means of support. The bill makes most legal immigrants entering after the date of enactment ineligible for most federal means-tested programs for 5 years after entry, even those who have never had a sponsor and have no other means of support, and become severely disabled after entry.

The Senate bill also makes most immigrants, including current recipients, ineligible for SSI. Immigrants are ineligible for most other needs-based assistance for 5 years after which sponsor deeming would apply until 40 qualifying quarters of work had been done -- even after naturalization. Under the Senate bill, noncitizens would be eligible for some programs such as foster care and adoption assistance, child nutrition, and Head Start.

Though generally less severe than the Conference bill, the Senate bill would be improved if strategies to tighten eligibility rules for non-citizens focussed on requiring sponsors to bear greater responsibility for those immigrants that they sponsor rather than denying aid broadly to most non-citizens including those who have no other means of support. Furthermore, deeming of sponsors' income and resources should not be applicable after citizenship.

- The Conference bill requires virtually every federal, state, and local benefit program to verify citizenship and alienage status of every applicant, including all children under the school lunch program, WIC, Maternal and Child Health Block Grant, Social Services Block, Head Start, and similar programs financed by states and localities. This changes the fundamental nature of these nutrition and health programs, creates greater future health and social costs, and imposes new administrative burdens. The Senate bill has no such provisions.

TITLE VII

Child Protection Issues

- The conference bill eliminates important parts of foster care and adoption assistance entitlements and abolishes several programs such as Family Preservation and Support and Independent Living. The Senate bill had retained current law for these programs. The conference bill also cuts funding for child protection services somewhat, while the Senate bill had maintained current law funding levels.
- The conference bill weakens current enforcement mechanisms for child protections, while the Senate bill maintained current enforcement abilities.
- Under both the conference bill and the Senate bill, eligibility for federal matching funds for foster care and adoption assistance maintenance payments is based on pre-welfare reform AFDC criteria, which is likely to be burdensome to states. Additional flexibility to provide for alternative, less burdensome eligibility criteria would be preferable.

TITLE VIII

Child Care Issues

- The conference agreement would reduce by \$1.2 billion over five years the amount of funds provided to states in the Senate bill for child care services. While the final overall seven year level of child care resources is roughly the same in the conference agreement and the Senate bill, the conference measure would require the Senate's additional \$3 billion in child care monies to be spread out over seven years rather than 5 years. However, the agreement would also require more recipient to work (by not counting "leavers" in the participation rate) and to work for an increased number of hours (by not allowing those with a child under six to work 20 hours per week). As a result, the conference agreement would provide about \$6 billion less for child care (according to CBO) than is required to meet the bill's work requirements and maintain current law levels of child care for low income working families.
- The conference agreement, unlike the Senate bill, endangers the safety and well-being of children in care by eliminating the child health and safety protections contained in current law and maintained the Senate bill. It repeals legislation which requires states to establish health and safety standards, including prevention and control of infectious diseases, building and physical premises safety, and minimum training requirements applicable to child care providers. In addition, the conference bill reduces the requirement for a minimum quality set-aside of 15 percent, as reflected in the Senate bill, to 3 percent.
- The Senate bill would be improved by providing a child care guarantees to individuals who are participating in the work program and transitioning from welfare-to-work and by providing sufficient resources to states to meet these child care needs.

Title XX

- Under the conference agreement, annual funding for the title XX block grant would drop from \$2.8 billion to \$2.52 after FY 1996, reducing state resources for child care, child protection, home-based services, services to the disabled, and many others by 10 percent.

January 16, 1995

**DIFFERENCES BETWEEN THE SENATE BILL AND
CONFERENCE AGREEMENT ON H.R. 4**

Undesirable Changes made to the Senate Bill in Conference

Contingency and Population Growth Fund

- The population growth fund was reduced from \$878 million in the Senate bill to \$800 million in the conference bill.

Maintenance of Effort

- The maintenance of effort standard in the conference agreement is set at 75 percent, as opposed to 80 percent in the Senate bill.
- Under the conference agreement, the maintenance of effort standard can be further reduced by up to 8 percentage points (down to 67 percent) for outstanding performance or improvement in performance in one or more of several categories.

Transfers

- Unlike the Senate bill, the conference bill allows states to transfer up to 30 percent of the cash assistance block grant to the child care, child protection, or the Social Services Block Grant.

Medicaid

- The conference bill eliminates categorical Medicaid coverage for low-income families with children on cash assistance. The Senate bill preserves this entitlement.

Prohibitions

- The conference bill imposes a family cap (with an opt-out provision). The family cap is left to the discretion of the state in the Senate bill.
- Hardship exemptions are limited to 15 percent of the caseload in the conference bill, as opposed to 20 percent in the Senate bill.

Work Participation Issues

- The conference bill requires more recipients to work than the Senate bill (a 60 percent increase), but does not provide states with any additional resources to meet these requirements. Specifically, the conference bill does not count those who leave welfare for work in the work participation rate for six months and does not give states the option to limit the work requirement for single parents with children under six to 20 hours per week. Both these provisions were included in the Senate bill.

Performance Bonus Issues

- The performance incentive in the conference agreement consists of a reduction in the maintenance of effort, rather than a bonus payment as the Senate bill did.

Program Audit

- *The conference agreement only provides for a general fiscal audit of how the states spend federal money, not a program-specific audit that would ensure that states are meeting the programmatic requirements of the bill, as the Senate bill required.*

SSI for Children with Disabilities

- *The Senate passed version would pay cash benefits to all children who meet the new definition of disability. The conference agreement, on the other hand, would reduce cash benefits by 25 percent for as many as three-fourths of the severely disabled children who meet the new definition of disability. This reduction would apply to all disabled children except those who need personal assistance.*

Immigrant Eligibility Issues

- *The Conference bill makes most legal immigrants in the country (including those now on the rolls) ineligible for SSI and Food Stamps, even severely disabled children and adults, and elderly immigrants, who have never had a sponsor and have no other means of support. The Senate bill makes most legal immigrants ineligible for SSI (although they remain eligible for Food Stamps).*

Nutrition Assistance

- *The conference agreement limits the amount that may be spent on food stamps in each of the next seven years. The cap in each year is set exactly equal to CBO's current estimate of program costs through 2002, adjusted each year based on changes between actual and projected food prices and participation. Program costs above the cap would trigger across-the-board benefit reductions above and beyond the deep cuts already taken in the bill. The Senate bill had no cap.*
- *The conference agreement cut food stamp benefits about \$8 billion more over seven years (excluding provisions affecting immigrant); the Senate bill cut about \$25 billion while the conference agreement cut nearly \$33 billion.*
- *The conference agreement would keep -- and freeze -- a limit on the maximum shelter deduction, a provision affecting mostly families with children facing high shelter costs. The Senate bill made no change to current law.*
- *The conference agreement imposes a tighter time limit (no more than 4 months in 12) on unemployed adults without children; the Senate bill limit was 6 months in 12.*
- *The conference agreement weakens national nutrition standards for school nutrition programs, jeopardizing the long-term health of America's children. The Senate bill did not.*
- *The conference bill authorizes optional demonstrations that unravel the child nutrition safety net and that affect up to 40 percent of all school children. The block grant demonstrations undermine the programs' ability to ensure meals for all eligible children, to respond automatically to economic changes and to maintain national standards for eligibility and nutrition. The Senate bill did not contain these provisions.*
- *Reimbursement rates in family day care homes and for summer food service would be cut even more than they were in the Senate bill.*

- *By prohibiting nutrition assistance to illegal aliens, the bill creates an unprecedented local administrative burden and will ultimately deny benefits to millions of eligible children.*
- *Unlike the Senate bill, the conference agreement denies food stamps to virtually all legal immigrants.*
- *The conference agreement funds mandatory annual commodity purchases of \$300 million for distribution through TEFAP, soup kitchens, and food banks. The purchases are paid for with funds appropriated for the Food Stamp Program.*

Child Protection Issues

- *The conference bill eliminates important parts of foster care and adoption assistance entitlements and abolishes several programs such as Family Preservation and Support and Independent Living. The Senate bill had retained current law for these programs. The conference bill also cuts funding for child protection services somewhat, while the Senate bill had maintained current law funding levels.*
- *The conference bill weakens current enforcement mechanisms for child protections, while the Senate bill maintained current enforcement abilities.*

Child Care Issues

- *The conference agreement would reduce by \$1.2 billion over five years the amount of funds provided to states in the Senate bill for child care services. While the final overall seven year level of child care resources is roughly the same in the conference agreement and the Senate bill, the conference measure would require the Senate's additional \$3 billion in child care monies to be spread out over seven years rather than 5 years. In addition, at the same time, the agreement would increase the need for child care by requiring more recipients to work (by not counting "leavers" in the participation rate) and by requiring them to work for an increased number of hours (by not allowing those with a child under six to work 20 hours per week).*
- *The conference agreement, unlike the Senate bill, eliminates the child health and safety protections contained in current law and maintained the Senate bill. It repeals legislation which requires states to establish health and safety standards, including prevention and control of infectious diseases, building and physical premises safety, and minimum training requirements applicable to child care providers. In addition, the conference bill reduces the requirement for a minimum quality set-aside of 15 percent, as reflected in the Senate bill, to 3 percent.*

Improvements Made to the Senate Bill in Conference

Funding Level

- *The conference agreement provides more slightly money to states for temporary assistance (excluding child care). The funding level of the conference bill in FY 1996 is \$16.3 billion while the comparable Senate bill amount is \$15.8 billion -- a difference of almost \$500 million.*

Contingency Fund

- *The conference agreement provides for a somewhat larger contingency fund by providing the \$1 billion contingency fund through FY 2001, rather than FY 2002. However, in spite of this change, the Administration still finds the contingency fund very inadequate.*

Nutrition Assistance

- *The conference agreement restricts the Food Stamp block grant option to states with statewide EBT systems or relatively low payment error rates and requires that all block grant funds be spent for food except for a maximum of 6 percent for administration.*
- *The conference agreement substantially improves the Senate bill by enabling unemployed adults to cure their ineligibility by working or participating in a work program.*
- *The conference agreement eliminates Senate language that effectively financed the purchase of EBT equipment for retailers with transaction fees charged to recipients.*

Immigrant Eligibility Issues

- *The Senate bill would have required deeming beyond citizenship (i.e., denied benefits to immigrants that had naturalized), while the conference bill limited the deeming restrictions to until immigrants attained citizenship.*

POVERTY ANALYSIS



THE DIRECTOR

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

December 6, 1995

Honorable Sam Gibbons
Ranking Member
Committee on Ways and Means
2204 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Gibbons:

We are pleased to provide you with a preliminary assessment of the potential poverty effects of the conference version of the reconciliation bill, as well as an analysis of the conference version of the welfare reform bill.

What is Included in the Analysis?

The analysis considers the potential effects of the conference provisions on the movement of children, families, and all individuals in and out of poverty. The following tables compare the potential effects of the House, Senate and Conference balanced budget and welfare plans on the number of persons and children with incomes below the poverty line, and estimates the effects these proposals have on the size of the poverty gap -- a measure of how short of the poverty thresholds a family's income falls. The analysis estimates the impact on poverty at full implementation, which will be reached in most program provisions by the year 2002.

This analysis includes two kinds of poverty tables. One uses the pre-tax cash definition of income that the Census Bureau uses for the official poverty statistics. The other table incorporates a commonly used alternative definition of income that is broader than the official poverty definition and takes into consideration a wider range of factors relating to income. It includes, for example, the effects of Federal tax policies (including the Earned Income Tax Credit) and near-cash in-kind assistance programs such as Food Stamps and housing programs. The discussion below references only the broader definition. Neither definition includes proposed changes in Medicaid and Medicare.

We also provide a table that addresses the sensitivity of these poverty estimates to the technical assumptions on which the model is based, including baseline differences between CBO and OMB, labor supply effects and an alternative State funding level. However, many possible alternative economic and demographic variables have not been modeled. In the long run, these variables are among the most important determinates of welfare caseloads.

Methodology

The analysis was performed using HHS's micro simulation model, based on data from the March 1994 Current Population Survey.

Similar to the earlier analysis of the House and Senate bills, policy changes simulated for the welfare bills include the impact on family income from proposed changes in AFDC, SSI, food stamps, child nutrition, and child support programs. In addition to the impact from welfare policy changes, we analyzed the effects on poverty of the entire reconciliation plans, including federal employee pension contributions, agriculture subsidies, family tax credit, the EITC, as well as the effects of appropriation actions for housing, labor and energy assistance programs. Changes in government provided health coverage are not included, nor are there any adjustments for medical costs.

For a more detailed explanation of the methodology used in this analysis, please refer to the attached earlier report "Potential Poverty and Distributional Effects of Welfare Reform Bills and Balanced Budget Plans."

Results of the Analysis

On November 9th, we provided Congress with a study assessing the potential poverty effects of the House and Senate welfare reform proposals. This analysis illustrated that the Senate welfare bill, using the alternative definition of income, could move 1.2 more children into poverty. The effects of the House version of welfare reform would have been even worse for children -- potentially moving 2.1 million more children into poverty, or .9 million more than the Senate version. According to our most recent analysis:

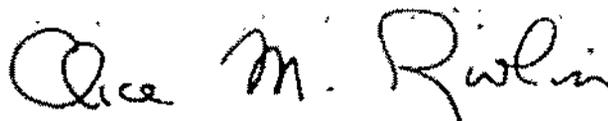
- the conference version of the welfare reform bill has a more serious effect on children than the Senate bill -- potentially moving 1.5 million children into poverty using the more comprehensive definition of income. This is .3 million more children than the Senate welfare provisions would move into poverty.
- when all of the congressional budgetary proposals that affect low-income families are considered in addition to changes in welfare programs, the poverty effects of the conference version of the reconciliation bill are only a slight improvement over the Senate budget plan. The conference proposal could potentially move 1.6 million children into poverty -- or only .1 million less than the Senate version.

Potential Changes and Future Analysts

As you are aware, the legislation continues to be revised. Some provisions, such as a food stamp cap, may be included in a stand-alone welfare bill. Since these provisions may have additional poverty effects, they could alter the attached estimates.

We are currently working with affected agencies to develop a distributional analysis of the conference agreement, similar to the analysis we provided for the House and Senate budget plans. We look forward to sharing this information with you as soon as it is available.

Sincerely,

A handwritten signature in black ink that reads "Alice M. Rivlin". The signature is written in a cursive, flowing style.

Alice M. Rivlin
Director

IDENTICAL LETTERS SENT TO HONORABLE SAM GIBBONS,
HONORABLE GEORGE MILLER, HONORABLE MARTIN O. SABO,
HONORABLE HENRY A. WAXMAN

Table 1

THE IMPACT OF CONGRESSIONAL PROPOSALS ON POVERTY

Using a Comprehensive Post-Tax, Post-Transfer Definition of Income

Simulates effects of full implementation in 1993 dollars

	Effect of 1993 Changes		House Budget Plan		Senate Budget Plan		Conference Agreement	
	Prior Law	Current Law	Entire Plan	Welfare Bill	Entire Plan	Welfare Bill	Entire Plan	Welfare Bill
Children Under 18								
Number in Poverty (Millions)	10.8	10.0	12.3	12.1	11.6	11.2	11.6	11.5
Change From Current Law			2.3	2.1	1.7	1.2	1.6	1.5
Poverty Rate (Percent)	15.5	14.4	17.6	17.4	16.8	16.2	16.6	16.5
Change From Current Law			3.3	3.0	2.4	1.8	2.2	2.1
Families With Children								
Number in Poverty (Millions)	18.3	17.0	20.9	20.6	19.9	19.2	19.7	19.6
Change From Current Law			3.9	3.7	2.9	2.2	2.8	2.6
Poverty Rate (Percent)	12.6	11.7	14.4	14.3	13.8	13.3	13.6	13.5
Change From Current Law			2.7	2.5	2.0	1.5	1.9	1.8
Poverty Gap (Billions)	17.6	16.2	24.8	24.3	21.5	20.6	21.9	21.7
Change From Current Law			8.6	8.1	5.3	4.4	5.7	5.5
All Persons								
Number in Poverty (Millions)	29.5	28.1	32.6	32.1	31.6	30.7	31.4	31.1
Change From Current Law			4.5	4.0	3.5	2.6	3.3	3.0
Poverty Rate (Percent)	11.3	10.8	12.6	12.4	12.2	11.8	12.1	12.0
Change From Current Law			1.7	1.6	1.3	1.0	1.3	1.2
Poverty Gap (Billions)	48.6	46.8	57.4	56.2	54.0	52.3	54.6	53.6
Change From Current Law			10.6	9.3	7.2	5.5	7.8	6.7

Notes: The Census Bureau publishes a family of poverty statistics using alternative definitions of income. The definition of income displayed here includes the effect of taxes (including EITC), Food Stamps, housing programs, and school meal programs. Changes in government-provided health coverage are not included, nor are there any adjustments for medical costs. Numbers may not add due to rounding.

"Entire Plan" refers to reconciliation proposals as well as income effects from appropriation actions for housing, labor, and energy assistance programs.

Source: HHS's microsimulation model, based on data from the March 1994 Current Population Survey.

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Table 2

THE IMPACT OF CONGRESSIONAL PROPOSALS ON POVERTY
 Under The Pre-Tax Money Income Definition Used For Official Poverty Statistics

Simulates effects of full implementation in 1993 dollars

	Effect of 1993 Changes		House Budget Plan		Senate Budget Plan		Conference Agreement	
	Prior Law	Current Law	Entire Plan	Welfare Bill	Entire Plan	Welfare Bill	Entire Plan	Welfare Bill
Children Under 18								
Number in Poverty (Millions)	15.5	15.5	16.0	16.0	15.8	15.8	15.8	15.8
Change From Current Law			0.5	0.5	0.3	0.3	0.3	0.3
Poverty Rate (Percent)	22.3	22.3	23.1	23.1	22.8	22.8	22.8	22.8
Change From Current Law			0.7	0.7	0.5	0.4	0.5	0.4
Families With Children								
Number in Poverty (Millions)	26.5	26.5	27.5	27.5	27.2	27.2	27.2	27.1
Change From Current Law			1.0	1.0	0.7	0.6	0.6	0.6
Poverty Rate (Percent)	13.1	18.3	19.0	19.0	18.8	18.8	18.8	18.8
Change From Current Law			0.7	0.7	0.5	0.4	0.4	0.4
Poverty Gap (Billions)	41.6	41.6	50.6	50.6	47.0	46.9	47.7	47.5
Change From Current Law			9.0	9.0	5.4	5.3	6.1	5.9
All Persons								
Number in Poverty (Millions)	38.8	38.8	39.9	39.9	39.6	39.6	39.6	39.6
Change From Current Law			1.1	1.1	0.9	0.8	0.8	0.8
Poverty Rate (Percent)	14.9	14.9	15.4	15.4	15.3	15.2	15.3	15.2
Change From Current Law			0.4	0.4	0.3	0.3	0.3	0.3
Poverty Gap (Billions)	76.3	76.3	85.9	85.9	82.9	82.5	83.6	83.1
Change From Current Law			9.6	9.6	6.6	6.2	7.3	6.8

Notes: The definition used for official poverty statistics counts all cash income, but excludes the effect of taxes (and EITC), Food Stamps, housing programs, and other near-cash government assistance programs. Numbers may not add due to rounding.

"Entire Plan" refers to reconciliation proposals as well as income effects from appropriation actions for housing, labor, and energy assistance programs.

Source: HHS's microsimulation model, based on data from the March 1994 Current Population Survey.

Table 3

CONFERENCE WELFARE PROPOSAL: SENSITIVITY OF POVERTY ESTIMATES TO TECHNICAL ASSUMPTIONS
Using a Comprehensive Post-Tax, Post-Transfer Definition of Income

Simulates effects of full implementation in 1993 dollars

	Optimistic Assumptions	Assumptions Modeled			Pessimistic Assumptions	
	States Increase Benefit Funding; Increased Economic Growth; and/or Non-Marital Birth Rates Decline	Two-Thirds of States Provide Child Benefit Vouchers After Time Limit; CBO Projection of Program Growth; Intermediate Labor Supply Effects	CBO Projection of Program Growth Under Current Law	Intermediate Estimate	More Conservative Labor Supply Effect of Time Limit	States "Race to the Bottom" and/or Decreased Economic Growth
Children Under 18						
Number in Poverty (Millions)	-7.7	11.2	11.3	11.5	11.7	+7.7
Change From Current Law	-7.7	1.2	1.3	1.5	1.7	+7.7
Poverty Rate (Percent)	-7.7	16.1	16.3	16.5	16.8	+7.7
Change From Current Law	-7.7	1.7	1.9	2.1	2.4	+7.7
Families With Children						
Number in Poverty (Millions)	-7.7	19.1	19.3	19.6	19.9	+7.7
Change From Current Law	-7.7	2.1	2.3	2.6	2.9	+7.7
Poverty Rate (Percent)	-7.7	13.2	13.4	13.5	13.7	+7.7
Change From Current Law	-7.7	1.5	1.6	1.8	2.0	+7.7
Poverty Gap (Billions)	-7.7	20.3	21.0	21.7	22.1	+7.7
Change From Current Law	-7.7	4.1	4.8	5.5	5.9	+7.7
All Persons						
Number in Poverty (Millions)	-7.7	30.6	30.8	31.1	31.4	+7.7
Change From Current Law	-7.7	2.5	2.7	3.0	3.3	+7.7
Poverty Rate (Percent)	-7.7	11.8	11.9	12.0	12.1	+7.7
Change From Current Law	-7.7	1.0	1.1	1.2	1.3	+7.7
Poverty Gap (Billions)	-7.7	52.2	52.9	53.6	54.0	+7.7
Change From Current Law	-7.7	5.3	6.0	6.7	7.1	+7.7

Notes: The Census Bureau publishes a family of poverty statistics using alternative definitions of income. The definition of income displayed here includes the effect of taxes (including EITC), Food Stamp, housing programs, and school meal programs. Changes in government-provided health coverage is not included, nor are there any adjustments for medical costs.

Source: HHS's microsimulation model, based on data from the March 1994 Current Population Survey.



CENTER ON BUDGET AND POLICY PRIORITIES

The Credibility of the OMB Analysis on the Poverty Impact of the Welfare Bills

The Office of Management and Budget released an analysis detailing how the conference agreement on the welfare bill would affect the scope of poverty in the United States. The study found the bill would substantially increase the extent and depth of child poverty. Some have suggested that the methodology the study employs is flawed and its findings overstated.

Those who have questioned the accuracy of the study argue that the measure of income used overstates the effects of the legislation and that the study did not take into account behavioral changes that would reduce poverty. These criticisms do not stand up under scrutiny.

- The OMB analysis employed the very definition of income that many conservatives themselves have long said should be used when determining whether a family is poor. The analysis considered a family poor if its cash income plus the value of food stamps, any housing assistance it receives, and the earned income tax credit it gets, minus the income and payroll taxes it pays, leave the family below the poverty line. While this differs from the definition of income used in the most widely cited Census Bureau poverty figures, it conforms to an alternative measure of income the Census Bureau has used for some time. The traditional Census Bureau definition of income that includes only before-tax cash income and excludes other benefits has been criticized repeatedly by a number of analysts, including most conservative analysts, who argue that food stamps, housing assistance, and the earned income credit do, in fact, increase a family's disposable income.

The income measure used by OMB also is consistent with the approach proposed recently by a prominent National Academy of Sciences panel on the measurement of poverty. The panel recommended that in-kind assistance other than health care insurance be included in the definition of income when poverty is measured and that after-tax rather than before-tax income be used.

- The OMB study *did* account for behavioral change resulting from the imposition of welfare time limits. The study assumed that 40 percent of the families hitting the five-year time limit would find employment. The Congressional Budget Office, by contrast, assumes that only 20 percent of these families would find work. OMB assumed major behavioral change in this area and used an assumption twice as optimistic as CBO did.
- Furthermore, OMB's estimate of the impact of the legislation on poverty may be *understated* due to several conservative assumptions the study made. The analysis assumes no state will impose a state time limit of less than five years. But a number of states — including Wisconsin, Virginia, and Tennessee — are developing proposals for time limits of substantially shorter duration. If states impose shorter time limits on the receipt of cash assistance and work slots, more families would likely be left without assistance and with limited prospects for private sector employment. In addition, the analysis assumes states would not shift many resources now used to provide cash assistance to poor families to services or work programs. If states do expend less on cash benefits than OMB has assumed, poor children would receive less income support and could fall deeper into poverty.
- It is important to note that a substantial part of the increase in child poverty stems from spending reductions the legislation makes in areas other than AFDC. The cuts in the food stamp program, for example, push a substantial number of children in working poor families beneath the poverty line. Currently the combination of modest earnings, the earned income tax credit, and food stamps lifts many working families above the poverty line. When food stamp benefits are cut, some of these families are pushed beneath the poverty line. The large reductions in SSI benefits for low-income disabled children also contribute to the increase in poverty identified in the OMB study.

Response to Criticisms of the Poverty Studies

Congressional budget proposals make major changes in several programs providing a safety net for low-income families with children. A study measuring the impact of these proposals concludes that over 1.2 million children will be pushed into poverty as a result of the Senate welfare bill, most of them in working poor families for whom cash benefits and Food Stamps now make the difference between being poor and being non-poor¹. This poverty analysis *accurately* and *conservatively* measures the number of children living in low income families that fall below the poverty line because of changes to the AFDC, SSI, and Food Stamp programs, despite criticisms otherwise.

The study utilizes the appropriate definition of income in measuring poverty.

The study does not use a new definition of poverty, as some have suggested. The study calculates poverty using the same method that has been used for years by analysts, including those at the Congressional Budget Office, the Committee on Ways and Means, and the Census Bureau.

The purpose of the analysis is to demonstrate the impact of Congressional proposals on the economic well-being of low-income families. To do that, an income measure was needed that fully captured the impact of government policies before any policy changes. The official Census measure does not do that. The official Census measure counts only cash income and ignores the effect of Federal taxes and the EITC, as well as the value of food stamps and housing assistance. For years, many analysts, particularly conservatives, have pointed out that the official measure overstates poverty because it ignores the impact of these important transfers. They are right. When people receive food stamps, housing assistance, or EITC, they are better off. A study that purports to measure poverty but fails to include these programs is missing an important source of income for low-income families. For example, in this analysis the number of children in poverty under current law (before any proposed policy changes are taken into account) falls from 15.5 million under the official poverty definition to 10.0 million after including in family income the value of non-cash government transfers and the EITC, less federal taxes. This analysis responds to the criticism that the official poverty measure fails to account for the impact of many government programs by appropriately using a more inclusive measure of income that has been used by CBO and the Committee on Ways and Means.

¹ This effect is generated from an analysis that estimates the impact of policy changes on families and individuals. The results are based on the TRIM2 microsimulation model, a well-recognized model based on a nationally representative sample of the non-institutionalized U.S. population that has been used to produce estimates for more than 20 years. The model computes the income, benefits, and taxes for each family under alternative policy scenarios and then aggregates these income changes to determine the national impact of the policy change. Potential effects of these laws as fully implemented are then shown based on the 1993 population in 1993 dollars.

Further, the measure used in this study is nearly identical to an alternative used by the Census Bureau. The Census Bureau calculates this alternative because the official measure does not account for the full effect of government policies.

The study uses optimistic assumptions about the work efforts of adults who lose AFDC benefits due to the time limit in the Senate welfare bill

Some have criticized the report, stating that it does not assume that persons cut off from welfare would go to work. That is not the case. The study uses optimistic assumptions about the subsequent work efforts of adults who lose AFDC eligibility because of the time limit.

Before the time limit kicks in, most welfare recipients have already left the rolls. Thus, in estimating how much women affected by the time limit would work and what wage they could work for, it is important to keep in mind that we are talking about the most disadvantaged of welfare recipients--those who remain on AFDC for a long time. They have poor skills, low educational attainment, and minimal work experience. Their employment prospects are not good.

The work estimate in this analysis was developed by comparing the characteristics of long-term welfare recipients with those of single mothers who do not receive AFDC. We looked at their education level, work experience, number and age of children, aptitude, and other characteristics. We did not take into account other conditions that may disadvantage long-term welfare recipients, such as the presence of a disability or unmeasurable characteristics that may affect employment prospects.

Still, among these women, our analysis assumed that women who hit the time limit would earn on average \$4,700 per year. The top ten percent would manage to get jobs that pay an average of \$25,000 per year.

Realistically, the estimate used in this analysis should be regarded as an optimistic appraisal of the earnings prospects of long-term welfare recipients when they enter the labor market.

It is also important to note that the work requirements will unlikely have a major effect on the income of AFDC recipients. Workfare participation is expected to be minimal because the bills do not provide the resources for states to operate large scale work and training programs.

Even with a higher percentage of AFDC recipients working, this increased work effort will have a marginal effect on the income of AFDC families. One recent study on the employment prospects of welfare recipients concluded that if forced to rely on their own wage earnings, most

welfare recipients would remain poor even if they worked full-time, full-year.²

Further, numerous evaluations have concluded that workfare has modest effect on the income of participants. Even intensive work and training programs have not resulted in substantial income gains, particularly for long-term recipients. For recipients who would find decent jobs, much of the earnings would be offset by taxes, work expenses, and benefit reductions. For example, an AFDC recipient who begins to work would keep only about 30 percent of their first \$6,000 in earnings.

The estimates of the number of additional children falling into poverty are based on conservative assumptions about state behavior

The estimate of the number of children moved into poverty under the Senate bill is conservative given the optimistic assumptions that are used. The analysis makes optimistic assumptions about state maintenance of effort, and excludes several program cuts. Further, given the degree to which transfer programs reduce poverty under current law, it is reasonable to expect that the large program reductions in the Senate plan would result in increased poverty. All of these reasons are discussed below.

Under the welfare reform plans in the Senate and the House, states are not required to maintain their current levels of spending for cash assistance. The House plan has no maintenance of effort requirement, while the Senate plan would require states to maintain at least 80 percent of their FY 1994 spending levels for AFDC and related programs until FY 1999. While the proposals would give states great latitude to reduce their own expenditures on welfare programs, *this analysis assumes that states will not cut benefits*. It should be noted, this is in direct contrast with many research studies which find evidence that states would cut expenditures for welfare programs. Recent state actions, as well as proposals by Governors on future actions, would support the conclusions of researchers. Several states have already moved to reduce welfare benefits in response to the block grant. For example, Maryland is planning to cut welfare benefits by as much as 30 percent if the block grant is implemented.

The following sections discuss several reasons why the assumption of state behavior used in this analysis is likely to be overly optimistic.

1) The Federal Government Would No Longer Share in the Additional Costs of AFDC

The current AFDC financing structure makes it cheap for states to increase spending on welfare programs. As it stands now, states set the benefit levels, and the federal government picks up

²Gary Burtless, "Employment Prospects of Welfare Recipients", in *The Work Alternative: Welfare Reform and the Realities of the Job Market*, ed. Demetra Smith Nightingale and Robert H. Haveman, The Urban Institute Press, 1994.

over half of the bill. Under a block grant, however, states would have to pay for every cent of spending above the block grant amount. Common sense would dictate that this change in the funding structure alone, ignoring the reductions in federal spending, would result in lower welfare spending by states.

A recent, independent review of studies on state benefit levels would support that common sense conclusion.³ Every study included in the report would predict that block granting AFDC would lead to a substantial decline in AFDC benefit levels. If our analysis had accounted for the 70 to 85 percent decline in benefits that some studies predict would result solely from changing the funding structure of AFDC, the poverty impact of the welfare reform bills would have been substantially higher.

The reason that states would reduce benefits is because the federal government would no longer share in the benefits or costs of changes in benefit levels. The funding structure that exists under current law means that states don't have to pay the full additional cost of changes in welfare spending; nor do states receive the full savings of reductions in welfare spending. Under current law, the federal government matches any payments states make for AFDC. Therefore, if a state wanted to increase AFDC benefits by \$1, a state would have to spend only between 20 and 50 cents. In other words, the price of a dollar of AFDC benefits is only 20 to 50 cents.

Under a block grant, the price of a dollar of AFDC benefits is the entire dollar; more, if food stamps are included. Because food stamps are fully federally funded, and are reduced when families receive higher food stamps, the price to a state of a dollar of AFDC benefits is actually \$1.43. One does not need complicated academic studies to see that states would spend less on welfare if they have to spend \$1.43 to provide another dollar in income to a family.

2) States Would Reduce Benefits to Avoid Becoming a Welfare Magnet

In addition to the "change in the cost of welfare benefits" that states will experience, many studies predict states will reduce benefits to deter migration.

Today, 17 percent of the population changes residence each year, and 3 percent move across state lines. Low income, welfare dependent families move at least as frequently as other demographic groups.

Recent research shows that over the past 25 years, the difference in AFDC benefit levels across states has been narrowing. Higher benefit states have been reducing the value of their benefits to

³Howard Chernick, "Fiscal Effects of Block Grants for the Needy: A Review of the Evidence," paper presented at the Conference on Taxation, October 1995.

bring them closer to the lower benefit levels of neighboring states.⁴ Under a block grant, where a state would have to pay the full cost of additional benefits that resulted from being a "welfare magnet", it is likely that states would increase their efforts to avoid becoming a magnet for those seeking higher welfare benefits.

Some research has found little evidence that welfare recipients are actually drawn to particular states because of a state's higher AFDC benefits. However, as long as politicians perceive that their state is a welfare magnet, states will continue to reduce the value of their benefits.

3) Recent History in State General Assistance Programs

State fiscal choices in other assistance programs may be an indication of what states may do under a block grant. In recent years several states have made severe reductions in their general assistance programs, which are fully state-funded without federal guidelines. These reductions may indicate what states will do once federal requirements and financial participation are reduced under a block grant system for AFDC.

4) Additional Assumptions About State Behavior Are Conservative

The model assumes that no state will enact a time limit less than five years. Recent experience suggests that this is an unreasonable assumption. Currently, nearly half of all states have a waiver that eliminates benefits for at least some fraction of the state's caseload earlier than the five year limit in the Senate and House bills. If the Administration analysis included a shorter time limit, the estimated poverty impacts would have been even greater than reported.

The Senate plan gives states the option to transfer up to 30 percent of the cash assistance block grant to other programs, such as Title XX block grant or for child welfare services. The analysis assumes that no states transfer block grant funds to other sources. Reductions in the cash assistance block grant to fund other services could result in dollar for dollar increases in the poverty gap, and increase the economic hardship of families with children.

Further, the House and Senate plans also give states the option to block grant the Food Stamp Program at a fixed funding level. The analysis assumes that no states take this option. However, if some states choose to receive a Food Stamp Program block grant and receive less money to operate the program, then the poverty impacts of the Senate plan would be greater.

⁴Paul E. Peterson, Mark C. Rom, and Kenneth F. Scheve, "State Redistributive Policymaking: A Race to the Bottom?", paper presented at the National Association of Welfare Research and Statistics Conference, September 1995.

The estimates of the number of additional children falling into poverty are conservative because they exclude many program cuts and assume constant overall economic conditions

Many of the proposed spending reductions are in programs that are excluded from the analysis. Some of the cuts are in programs that affect families' well-being, but cannot be attributed to families' disposable incomes. Spending reductions in these types of programs, such as Head Start, are not included in the analysis. Additionally, some spending reductions that do affect family income are not included because it is difficult to identify the families in the model that would be affected by the loss in benefits. For example, the Social Security Administration estimates that 50,000 people who are disabled due to alcohol and other drug addiction will lose SSI eligibility; that cut is not modeled. Other examples of spending reductions not included are the savings resulting from some immigrant provisions, and the increase in the age requirement for filing for aged SSI benefits.

The model also is conservative because it assumes that the overall economic picture remains constant. Under an entitlement system, families that lose income during recessions will qualify for benefits. The model does not adjust for the fact that under a block grant, no additional funds are available to serve these families. If states do not have the funds to meet increased needs during economic downturns, there would be a greater poverty effect.

The estimate that 1.2 million children will be moved into poverty under the Senate plan is reasonable given the current anti-poverty effectiveness of government programs.

Under current law, 18.2 million children live in poverty before taking into account any income from transfer programs. Additional income from social insurance programs, cash transfers, food and housing benefits, and the EITC removes 8.2 million children from poverty (this number also takes into account federal taxes paid). Of these 8.2 million children removed from poverty, nearly ten percent of them are removed by the 1993 Clinton Administration EITC and food stamp expansions alone. About 1.4 million children are removed from poverty by the EITC, 4 million are removed due to housing, food stamps, and school lunches, and the remaining 2.8 million are removed by cash transfers such as social insurance, AFDC, and SSI.

Under the Senate plan, transfer programs would remove 7 million children from poverty--1.2 million less than under current law. This estimate is reasonable given the large reductions in spending on the children's safety net programs. The Senate plan would reduce spending on AFDC and related programs by \$15.6 billion over seven years; Food Stamp Program spending would be reduced by \$27 billion over seven years; and, changes in the SSI program would remove 270,000 children from the SSI roles.

According to a separate HHS analysis of the Senate welfare bill, 3.3 million children will be denied assistance because of the 60 month time limit. Additionally, at state option, 2.3 million children could be denied assistance because of the family cap; 77,000 because they were born to

unmarried teen mothers, and 3.3 million because their paternity was not established.

Given the role that AFDC, SSI and Food Stamps play in alleviating child poverty, and the number of children who will be affected by the Senate plan, it is reasonable to expect that the substantial cuts in funding would result in more children in poverty.

Given the proposed changes in benefit programs, and given the conservative assumptions discussed earlier, the estimate of 1.2 million children being moved into poverty under the Senate plan is likely a lower bound estimate.

MEMORANDUM

TO: Jerry Klepner

FROM: Geri Goins, Helen Mathis, Marion Robinson, Douglas Haar

DATE: Tuesday, February 20, 1996

SUBJECT: Report on the Hearing sponsored by the Subcommittee on Human Resources Committee on Ways and Means on the National Governors' Association Welfare Reform Proposal

Panel I:

The Honorable Thomas R. Carper, Governor, Delaware
The Honorable Tommy G. Thompson, Governor, Wisconsin

Chairman Shaw began his opening statement mentioning how President Clinton vetoed two welfare reform bills. He welcomed the bi-partisan group of the National Governors Association here as it has restored the promise of welfare reform. Chairman Shaw stated that taxpayers are forced to spend an extra \$50 billion on illegal immigrants and that Federally controlled welfare is a disaster. He said break the entitlement and let the states truly help the poor. Chairman Shaw stated that President Clinton must make a choice and must make a stand. More families are working and less are receiving welfare. We still don't know where the administration stands on the Governors' proposal." He concluded that the problem is not the people, the system is the problem; it destroys their morals; it takes away their hopes for today.

Congressman Ford applauded the National Governor's Association welfare proposal even though there are weaknesses in it. He stated that he has not seen a bi-partisan proposal from the Governors in the past.

Congressman Ford noted that there is no difference in the legislation that the President has vetoed twice. Chairman Shaw said the difference is that the drug addict piece was added. Congressman Ford said that that was really no difference.

Congressman Ford expressed his concern that this proposal does not insure that needy children will be protected. He pointed out some of the weaknesses including a weak maintenance of effort test that allows state funds intended for children to go for other purposes, and it also adds to the ranks of the uninsured. The plan allows states to deny welfare benefits even when families have played by the rules, are willing to and able to work but cannot find a job - the states' proposal immediately those welfare recipients off. Additionally, the time limit, as proposed by the states, Congressman Ford believes is playing lip service to the advocates that states would choose and design fair and equitable programs and does not permit the federal government to judge this before Congress passes the money down to the states.

Congressman conclude by praising the National Governors' Association for the fortunately bi-partisan proposal to the Congress that is something that we as Democrats and Republicans on this subcommittee and the full committee always need to do.

Congressman Sander Levin gave his perspective of where we go from here: Our nation needs welfare reform that has been clear for a number of years. It is what propelled earlier efforts, such as the 1988 law which endeavored to link welfare to work. The Governors' proposals are important both substantively and procedurally. Procedurally, they are important in two ways: first, they have given new momentum to undertake welfare reform; second, they have injected bi-partisanship into the welfare debate. The Republican majority has failed in this effort and that mistake must not be repeated. There are two views on how to break the cycle of dependency: one is shortening the time allowed on welfare, withholding benefits for anyone under a certain age or repeat pregnancy. Under this approach, there is little emphasis on health care, day care, or preparation for work; the other involves teen pregnancy and a combination of obligation of the individual and opportunity for day care, and if necessary the continuation of health care and preparation for work. The Governors place themselves in the second group.

There several areas of significant concern: the Contingency fund is woefully inadequate; maintenance of effort of state funds could be less in proportion to federal dollars; in State accountability, provisions need more work to be enforceable; a substantial number of recipients could lose health care coverage; optional food stamp block grant removes the safety net for children; and, performance bonus, child care, child welfare, SSI and benefits for legal immigrants need review. These problems are not insolvable.

Congressman Matsui was interested in process. He asked when this proposal would go to full committee, and if the numbers in the proposal have been CBO scored to show the poverty rates.

Governor Thompson expressed urgency to enact this legislation over the next month. He indicated that the states are more capable of controlling welfare to achieve meaningful reform. He urged Congress to pass and the President to sign the three major bills of welfare reform, Medicaid and employment and training during the next month. He stated that states already spend between 25 percent and 30 percent on welfare. He also gave short statement from Engler. Engler believes that the Governors proposal defines the middle ground and not the middle of the road. Congress should change the law and the states will change the system. As far as illegitimacy is concerned, politicians can't stop teenagers from having sex but the support of family, church and schools can do this. Welfare reform should foster independence and protect children.

Governor Carper went over more specific parts of the proposal. Congress and the Governors should be working together across party lines. A recipient needs a job, a way to get to that job and to train for that job. Some recipients need child care. The EITC is pro-family. We have to make H.R. 4 reward states moving people from welfare to work. Replace Title VII in the conference report with maintain foster and adoption entitlements. The Governors' proposal will allow states to have flexibility on mandates on family cap with an option to restrict benefits to additional children beyond the family cap. Child welfare, which protects children, would be a block grant for family preservation, an option for foster care as capped block grant. For SSI the application deadline is set for January 1. Food Stamps would remain in the current-uncapped entitlement form. We maintain the current entitlement under eligibility for nutrition. The work participation rate provides for 25 hours rather than the proposed 30 hours and 35 hours. In addition, states can opt to lower the rate to 20 hours for parents with children. The contingency fund would increase to \$2 billion with a trigger for unemployment and food stamps. We significantly increase the money for child care. Child care would get an additional \$4 billion with states setting the standards. The Governors will deal directly with their concerns of legal aliens.

Congressman Camp stated that this proposal is proof that states are capable of the responsibility of writing legislation. Congressman Camp asked, would this increase the states' flexibility in the transportation area? Governor Thompson said yes. Congressman Camp continued, with Wisconsin reducing the welfare rolls, how can other states achieve this progress? Governor Thompson said we match skills with jobs and we received over 160 waivers for the counties. We want to try waivers statewide. Congressman Camp further inquired with the following questions: Do you believe with the waivers you have received from the administration that you can still afford the state flexibility; do you know what the Administration's view is on the Governors' proposal; is it current with President Clinton's views?

Congressman Ford asked about the savings. Governor Thompson said there were savings under Medicaid and the job training programs, though with the continuing resolution, 163 work programs have been reduced 25 to 50 percent with less money and the same regulations without the ability to consolidate. The Governors supported those savings. Congressman Ford said the American people want to know how we spend their

money. Where are the checks and balances to see how people are living and how do we put those in place? Governor Thompson said that in Wisconsin the welfare caseload has had a 32 percent reduction. With 100 percent maintenance of effort, I would like to use some flexibility to expand Medicaid to the working poor. I can't do that under the rules we currently have. Congressman Ford asked if children would be totally protected after 12 years of age? Governor Thompson said children, the sick and elderly are protected 100 percent. Congressman Ford continued why are small counties receiving these waivers instead of the cities? Governor Thompson said we would like to, but the regulations don't allow us to. Give us the chance to try new programs, because one size does not fit all. We need the opportunity to set up independent programs.

Congressman Levin asked if the new structure would fit everyone who needs to be covered? In regards to the contingency fund, in the last recession, AFDC went up by \$6 billion in five years. That is a problem isn't it?

Congressman Levin inquired about unemployment. In the conference report maintenance of effort was adopted at 75 percent which is way below what states are currently offering. Congressman Thompson said that the current system locks us in - we want to expand but are limited; the Governors are always trying to outdo each other.

Congressman Stark said the opposition to the Governors' proposal by the Catholic Church rests on the principle that there is no federal protection for children who are poor, and states are allowed to turn their backs on them. Second, it would repeal the rights of children for protection from abuse and neglect. Third, the Governors' proposal would deny aid to the children of teenage mothers and mothers on welfare. How do you know what works

Congressman Shaw said that religion is not the focus of how to consider this matter.

Governor Thompson said let us set up a program that does work. Congressman Shaw concluded with praise for the Governors' bipartisan effort.

PANEL II

David Ellwood, Eloise Anderson, Gerald Whitburn, Bob Greenstein

David Ellwood, Ph.D. Professor, John F. Kennedy School of Government, Harvard University, Cambridge, Massachusetts statement to committee on the NGA proposal reflected his disappointment in the direction in which the welfare debate has taken. He stated that a good welfare bill should do two things, get more people working and leave fewer children poor. He then offered five areas that he feels the NGA proposal falls short. 1) Real reform requires a strong EITC and resources to support work, training and child care. The NGA proposal still leaves poorer States facing severe fiscal pressure. 2)

States should pay their fair share. The NGA proposal lets States off the hook. A match is the surest protection from a race to the bottom.

Otherwise states have more incentive to cut benefits than move people from welfare to work. MOE is crucial.

3) Mandating arbitrary time limits without work is a mistake. 4) Avoid block granting food stamps under any circumstance. 5) Monitor State performance and learn from State experience. With this in mind he emphasized the fact that the lower benefit States will have to cut people off or lower services. He closed by asking the Governors and the Committee to please not block grant food stamps.

Cong. Ford questioned Dr. Elwood as to the effects that the NGA proposal would have on kids. Dr. Elwood stated he felt that some States would use the funds correctly and others would not. Therefore, there is a need for some kind of Federal oversight.

Cong. Levin's question to Dr. Elwood was why the NGA proposal needs changes to provide adequate childcare? Dr. Elwood's answer was that the States should share in the savings. The way the proposal is drafted the lower benefit States will come up short. Again there needs to be some written requirements of what the States must do and retain Federal oversight.

Cong. Stark's question to Dr. Elwood was what effect this proposal would have on kids. He responded that in all honesty in some States no food, no day care and no insurance. He stated that a good child care bill is measured by the parents working, food and shelter for the kids and some type of insurance. Mr. Stark then asked if it's a fact that the lower the welfare benefits the less desire a recipient has to find work. Dr. Elwood answered yes.

Cong. English asked Dr. Elwood to suggest time limit that he would feel comfortable with. Dr. Elwood answered that if welfare is going to be block granted to the States, why dictate to the State a time limit. When asked why the hardship 5 year limit is inadequate and for suggests on the direction on food stamps. Dr. Elwood responded by saying that he does not feel that kids should be penalized because the parent can't or won't find a job.

Eloise Anderson, Director of the California Department of Social Services, opened her statement by saying that the current welfare system encourages dependency. She then applauded the NGA proposal stating that it takes a giant step in the right direction to change welfare as we know it. Ms. Anderson stated that although Governor Wilson voted for the NGA proposal, there are still areas that needs improving to provide States with flexibility to develop innovative, effective and affordable solutions to our many pressing social problems. 1) The family cap needs to be a national policy. 2) The issue of legal and illegal immigrants. 3) The child support issue of funding for automation, the scope of services, details of the paternity establishment performance goal and the mandatory disqualification from Food Stamps for anyone who owes back child support.

4) It should allow States the ability to ensure that fraud, waste and abuse is to be prevented, allow Federal Tax Refund Intercept of TANF overpayments. In addition, exempt Electric Benefit Transfer EBT from Regulation "E" requirements. Last, it should retain the 1992 Food Stamp Quality Control Reforms which revised the method of establishing State error rate sanctions.

Cong. Matsui's question to Ms. Anderson was does she favor a 2 year time limit. Ms. Anderson answered yes, Cong. Matsui then asked what if their are no jobs. If these people are cut off the roles after two years where is the money coming from to help them. Cong. Matsui then referred to a statement that Ms. Anderson made about CA's success rate through its waiver projects. He then asked what was the success rate of your most successful project. Ms. Anderson stated 25%, then Mr. Matsui asked what would happen to the other 75%, will they not be served. Cong. Matsui did not give Ms. Anderson a chance to respond before he moved on.

Robert Greenstein, Executive Director, Center on Budget and Policy Priorities, Washington, D.C., gave his statement in opposition to the NGA proposal. He concluded that the governors' proposal gives cause for serious concern. The NGA proposal would provide additional Federal resources to States while at the same time permitting States to withdraw large amount of State funding for income support and work programs without losing any Federal funds. It also cuts too deeply in several other areas such as food stamps. While the NGA proposal allows States to withdraw substantial resources, it provides few real protections for poor children and families. Greenstein expressed a lot of concern with the provisions that allowed States to transfer welfare block grant funds to SSBG funds.

Gerald Whitburn, Secretary, Massachusetts Department of Health and Human Services, Boston, Massachusetts, testified in support of the NGA proposal. He emphasized the progress that Massachusetts has made in getting people off the welfare roles through their pilot waivers projects, although he was quick to criticize the Department for taking such a long time to process waiver requests. Whitburn went through a lengthy description and criticism of the way HHS handled the MA waiver request, citing number of contacts and specific dates. In particular, he spoke of the disagreement over time limits and cutoffs. He feels that it is time to get the Feds out of the welfare business and let the States give it a shot.

Cong. Camp question to Mr. Whitburn was does the records show that when States have moved people from the roles that they then reinvest the money in the program. Mr. Whitburn answered yes in his State last year the case load dropped. The additional money will be spent in child care.

Members present for the third and final panel were as follows: Representatives Shaw, Ford, Levin, Stark, and Matsui. This panel consisted of Sharon Daly, Catholic Charities USA, The Honorable Cardell Cooper, Mayor of East Orange; New Jersey on behalf of the Conference of Mayors and Deborah Weinstein, Children's Defense Fund

Mrs. Daly indicated that the government has a moral obligation to ensure that adequate support is available for children through jobs for parents or a national safety net. In their view, the National Governors Association (NGA) plan, like the congressional plan, has four fatal flaws:

- 1) It would repeal the federal guarantee of protection for poor children, and it would allow the states to turn their backs on their obligations to poor families.
- 2) The second fatal flaw in the NGA plan is that it would repeal the right of individual children to receive protection against abuse and neglect by their parents and caretakers. While the NGA plan is better in many respects than the House bill with regard to the child protection programs, it would still permit states to evade their responsibility to individual abused and neglected children.
- 3) The third fatal flaw of the NGA plan is that it retains the rigid and arbitrary time limits for welfare assistance that were included in the House bill. As you know, families could not receive cash assistance for more than five years (or two at state option) and states would have no responsibility for providing alternate assistance or jobs for the parents.
- 4) The fourth flaw in the NGA's plan is that it retains the ill-advised policy of denying aid to children born to teenage mothers and to mothers already on welfare. While the National Governors Association plan does not require states to adopt these dangerous policies, it would permit all states to go down this road without federal oversight or any effort to learn what the outcome will be of these cruel policies. As we all know, New Jersey is the only state with data on the result of a "family cap" policy. The Catholic bishops and Catholic Charities have repeatedly opposed the "family cap" on principle as well as on the empirical evidence.

There is one element of the NGA's plan that they can endorse wholeheartedly: limiting cuts in the Earned Income Credit to not more than \$10 billion over seven years. Scaling back both eligibility and the amount of the credit (as in the reconciliation bill) would punish the very families that can be role models for families on welfare.

Mrs. Daly closed with saying that the welfare debate has focused almost exclusively on personal responsibility, with hardly a mention of social responsibility. The Catholic Church, from the

Pope on down through the bishops, teaches that government must respect and guarantee that individuals rights are respected, including the right to "suitable employment for all who are capable of it," to just and adequate wages, and to social welfare benefits when jobs are not available or people are not able to support themselves and their families.

Mayor Cooper expressed that the governors' proposal falls far short of protecting the needs of our most vulnerable citizens, especially our children. Among their concerns:

- The proposal repeals the basic entitlement of poor children and their families to income assistance.
- It compromises the entitlement status of food stamps by allowing the state to establish block grants, and it makes deep cuts -- approximately \$26 billion -- in the food stamps program. In addition, unemployed adults who are not raising minor children would be thrown off food stamps after four months, even if they have not been offered a job.
- It provides states the option to convert funding for foster care, adoption assistance and independent living from an open-ended entitlement to a capped entitlement. This could mean that children in need of such services might not receive them.
- It retains the weak maintenance-of-effort provisions contained in the conference agreement, by allowing states to cut their share of welfare funding in the conference agreement, and thus allowing state to cut their share of welfare funding by 25 percent (\$28 billion from the system over seven years) without being penalized.
- It cuts the Earned Income Tax Credit, which helps to make work pay, by as much as \$10 billion.
- It is silent on the immigrant assistance provisions in the conference agreement which would penalize many newcomers, shift considerable costs to local governments and create administrative nightmares for program operators.

While the nation's mayors believe that our welfare system must be reformed and while they appreciate the bi-partisan effort the governors have made, they urge Congress to reject any welfare reform proposals which do not alleviate the concerns outlined above.

The Conference of Mayors basic principles for welfare reform are:

- the availability of: jobs which pay a living wage, health care coverage and child care;
- provisions which encourage fathers to assume responsibility for providing both financial and emotional support to their children;
- welfare benefits sufficient to maintain a standard of

living compatible with health and well-being, and which remain available for a period of time determined by the client's need rather than an arbitrary time limit.

-- a system based on incentive rather than punitive measures.

Mayor Cooper closed with a statement adopted from last month's winter meeting in Washington of the U.S. Conference of Mayors: "Every American has the right to income support, adequate and affordable housing, and basic nutrition and health care. The federal government must maintain responsibility for assuring that these basic needs are met for every citizen, particularly children, elders and the disabled." A responsible federal government will embrace these responsibilities. Welfare reform which fails to meet them will fail the nation.

Ms. Weinstein of the Children Defense Fund opened her statement by saying the NGA welfare reform proposal has some profound shortcomings. These basic flaws include the loss of guaranteed income, nutrition, and child protection safety nets for poor children, the potential for states to walk away from their responsibilities to poor children, and misguided provisions pertaining to time limits, work requirements, child care, and aid to children with disabilities. CDF has opposed the abandonment of these essential protections for children when they were proposed in the House, Senate, and conference version of H.R. 4. They oppose them now in the governor's plan, which modifies earlier bills by allowing state to maximize federal funding while minimizing state commitments.

Any welfare proposal should be judged by its impact on the lives of poor children and families.

Ms. Weinstein asked what will happen to children if the National Governors' Association welfare proposal is adopted? She indicated with reduction in food stamps \$2 billion greater than the Senate bill, and a 75 percent rather than 80 percent state maintenance of effort requirement, the NGA plan is in key respects more harsh than the Senate-passed welfare bill. The Senate bill was estimated by the Office of Management and Budget to increase the number of poor children by 1.2 million.

Furthermore, she expressed two significant criticisms of the current welfare system, which discourages earning and makes it difficult for two poor parents to stay together. The system discourages earnings by dropping cash and food stamp benefits precipitously soon after parents starts work, and by dropping subsidized child care and Medicaid coverage after a year. True reform should include the following tools:

-- quality child care, available on a sliding scale basis as long as the family's income is low enough to qualify, whether or not the family has ever received welfare;

- effective education, training and job placement programs (the most successful program operating now usually combine all these components);
- improved enforcement of child support orders and improved paternity establishment (without penalizing the children of mothers making a good faith effort to cooperate in seeking the absent parent), and
- expand earned income disregards that allow parents who work at low wages to continue to receive partial cash assistance and thereby ease the transition to work. States that have tried to improve disregards have increased the number of families whose cash benefits decline because they have earnings. The Earned Income Tax Credit serves a similar purpose, and it is disappointing that the NGA welfare document was willing to accept \$10 billion in EITC cuts.

The NGA proposal ought to be judged according to that elemental principle applied to the medical profession: first, do no harm. By adopting the provisions in the earlier bills that would plunge millions of children into deeper poverty, the NGA welfare proposal fails the test.

Q&A's to the Panel

Rep. Ford addressed his first question to Ms. Weinstein of CDF. Do you believe that federal protection must be guaranteed? The Governors stated earlier that we should just trust them. How do we respond to Governors. Ms. Weinstein replied that King George said to colonies a while ago -- we want the protection of laws -- if poor children are eligible for assistance then they should receive it. The Governors' bill gives you no such guarantee.

He basically asked the same question to Sharon Daley, should we trust the Governors. She answered by saying basic human rights, rights to assistance, right to life, and rights to adequate health care must be guaranteed in federal law. Protection for basic human beings must be written into law.

Ford questioned Mayor Cooper as to whether they had any input into the NGA proposal and should welfare be considered a block grant. He answered by saying, no they did not. He continued that people are divided along race, economic scale and where they live in this country and the federal government should not walk away from its responsibilities. It would be wrong. The federal government needs to provide a guiding hand.

Nydia M. Velazquez gave her statement. She opened her statement by saying she did not know which nightmare was worse -- getting a flight out of New York today to Washington D.C. or the nightmare of the NGA welfare proposal. She indicated that this honest effort falls short because it builds upon the flawed foundation

contained in the welfare proposal recently vetoed by the President. Training and search assistance mean nothing without the opportunity to get a real job.

We will only ensure the protection of our children by continuing the entitlement status for programs that guard our children's health and protect them from harm. Any welfare reform proposal that ends the guarantee of health care for children and weakens a vital program like AFDC is unacceptable.

She was especially disheartened that the governors' proposal did not address the issue of legal immigrants--and she emphasized the word legally. The provisions in the vetoed conference agreement were an insult to million of hard working immigrants. These mean-spirited provisions would permit states to deny SSI and Food Stamps to immigrants living in the United States legally. This proposal is unfair, unjust, discriminatory and un-American.

Velazquez continued that welfare reform should be a path to a better life not a dead-end street. "I support real welfare reform, but not without real job creation, not at the expense of children, and not on the backs of legal immigrants. The true test of a humane society is how it treats its most vulnerable citizens. In short, I she believe the NGA proposal does not pass the compassion test."

Q&A's went to Rep. Levin, and he started by saying that there has been a lot of discussion about the contingency fund, maintenance of effort and other issues. However he would like to focus on a few issues not mentioned yet and that the committee may not have jurisdiction, such as medicaid and medicare. He asked Ms. Weinstein of CDF to respond to those provisions. She replied that States can define eligibility for medicaid and AFDC as they see fit. While it is likely children will be covered, there is no assurance in the proposal that once you get a job that your coverage will continue. For children over the age of 13 it is unclear if they will be covered.

Rep. Levin also said that although Food Stamps is not in the committee's jurisdiction, he hoped the committee would look at the proposal.

Levin asked what happen to foster care. Ms. Weinstein replied that the NGA proposal allows for block granting all child protection services and this was of great concern to CDF. This denies the basic commitment to the concept of protecting children. Rep. Levin further expressed that we need time to discuss the legal immigration provision. The governors did not take a position.

Rep. Stark expressed that he did not trust his governor. Furthermore, he indicated that his Governor said if you cannot support your children this proves you are an unfit parent and the kids should be taken away in two years and every time a kid

changes jobs in the state he counts that as a new job. The question he stated was two-fold: If a person in New York loses a job and their benefits and then becomes sick, where do they go and who pays? Rep. Velazquez responded that they will go to the emergency room, and they must be treated. The city or state pays for the service.

Rep. Stark asked Mayor Cooper if he was in a position to determine who is fit to receive benefits. He replied absolutely not. Stark also asked if New Jersey has a family cap. Cooper replied, Yes, but it has not changed behavior and does not do the state justice. We have had a shift in the population and it has been difficult to determine the effect of the family cap.

Rep. Matsui indicated that he wanted to cover one point about the loss of the entitlement. He is concerned about the words "fair and equitable treatment." This is a major issue when you are concerned about accountability. Governor cannot get a free ride. Mayor Cooper responded that having each state define the words fair and equitable add another level of bureaucracy on top of the bureaucracy we already have. To what extent are we willing to punish people for not obtaining their goals in life? Governors are talking about spending less money and cutting more people from benefits. Welfare cannot be instituted state by state.

Rep. Velazquez expressed her concerns that members need to slow down and really examine these proposals. The governors cannot have it both ways. Their proposal breaks the partnership.

Rep. Shaw closed the hearing by correcting a statement that CDF made that 1.2 million children would go into poverty if the NGA proposal was instituted. He indicated that this number is based on the assumption that people would just be thrown off welfare and he believes that would not be the case. Further, he indicated that Congress would watch the governors to ensure that they do what they are supposed to do. He hopes they will not lose governors along the way, because there will be some changes to the current governors' proposal. We want people out of poverty.

TO: Interested Parties

FR: Holly Bode & Joe Warden

RE: Feb. 21 Commerce Committee hearing on Medicaid reform

DATE: February 21, 1996

Below are transcribed notes from today's hearing. Six governors testified: Tommy Thompson (R-WI), John Engler (R-MI), Michael Leavitt (R-UT), Lawton Chiles (D-FL), Bob Miller (D-NV), and Roy Romer (D-CO). The Republican members in attendance were: Bliley, Billirakis, Schaefer, Ganske, Upton, Tauzin, Oxley, and Greenwood. The Democrats in attendance were Waxman and Markey.

OPENING STATEMENTS

Bliley: Commend the governors for their bipartisan agreement. It provides guaranteed coverage to pregnant women and children, among others. It gives states more money than ever before, and provides an umbrella fund to meet any contingencies that might arise. The most valuable provision is state flexibility. Governors win, states win, and vulnerable Americans win because the program, under the NGA proposal, will be more responsive to their needs.

Waxman: The date that the majority selected was not good for our members. It is a disadvantage to Democrats, who will not have an opportunity to ask important questions.

The NGA agreement is not complete -- we do not have legislative language, and it has not been scored by CBO. We do not know if it will save money.

Last year, this Committee has not had any hearings on Medicare or Medicaid. We have seen the result of this lack of oversight and in depth consideration. Members of this Committee were embarrassed by the reconciliation bill that the Committee passed, and as a result many of those provisions, such as spousal impoverishment, were changed.

I commend Governor Chiles and the other Democratic governors for negotiating a better agreement, but there are many things wrong with it. For example, the lack of a definition of disability, and dropping mandatory coverage of kids over 12. The amount, scope and duration of services is undefined, as is the recipient's cost-sharing liability. There is

no definition of guaranteed coverage. This proposal would repeal Title XIX and consequently overthrows the body of Title XIX caselaw. It also removes protections against the abuse of provider taxes and donations.

I am glad that the Chairman has agreed to have more hearings, so that we can hear from the various groups that would be affected by this, such as children and the elderly.

Bliley: This bipartisan agreement is important, and I commend the governors for all their hard work. [To Mr. Waxman] Last year, this Committee had more Medicaid reform hearings than you had from 1990-1994.

The NGA proposal has been called the ideal compromise. It promotes innovation, gives states needed flexibility, and reduces fraud. Today, we will hear from the governors how they would respond if the NGA proposal is enacted.

Markey: I commend the governors for all their hard work. But what does it mean to be covered under the NGA proposal? What does the guarantee mean vis a vis flexibility, amount duration and scope, and the lack of a definition of disability. A "flexible guarantee" is an oxymoron, like "jumbo shrimp." In Through the Looking Glass, Humpty Dumpty said "Words mean what I choose them to mean." This plan exists in a "Looking Glass" world. What about spousal impoverishment, or financial protection for adult children of Medicaid-covered nursing home residents?

Schaefer: I give gracious support for you and your work. This is an excellent time to go forward.

Ganske: I want to commend you for your work. The NGA proposal is a refinement of our original MediGrant program. It eliminates mandates, gives states flexibility, ensures quality care for nursing home residents. As far as the donations and taxes issue is concerned, I am sure that governors will repeal those provisions of the plan in their individual states. I hope my colleagues will examine this issue very closely.

Upton: We must make existing plans better. However, we may be creating a new entitlement program with this NGA proposal, which we do not want to do.

Tauzin: I am here to listen to you. Congratulations on your proposal.

Oxley: I will ask questions about long term care later.

(NOTE: Greenwood came to the hearing late, and did not make an opening statement)

GOVERNORS' STATEMENTS

Thompson: We have been meeting since mid-December. We agreed not to use words and phrases such as "individual entitlement" and "block grants."

Congressional action, court decisions, and changing demographics have all contributed to growing costs. We must give states flexibility so they can get their programs and their costs under control. It is critical that Congress pass and the President sign welfare, Medicaid, and employment and training reform as soon as possible. Our proposals were passed unanimously, but they are very fragile. If they are changed, the NGA can no longer support them. We have supplied a great deal of detail, and we would like to supply more.

It is urgent that the Congress act ASAP. If it does not happen now, it could be another 2-3 years. If Congress doesn't move, states will suffer.

Miller: This is a unique time and opportunity. Medicaid costs are skyrocketing. After hours of discussions, we drafted a blueprint, and we hope we have taken a modest step to help Congress reform Medicaid.

The states and the federal government must guarantee coverage to pregnant women, kids under 6 under 133% of poverty, kids 6-12 under 100% poverty, the elderly and the disabled. States must have flexibility. They must be protected from economic downturns, the federal government must uphold its financial responsibility to the states. Bipartisanship is essential.

Leavitt: In Utah, we are expanding our system. However, we must have flexibility to do this. Only Medicaid is increasing as a proportion of state budgets -- other programs, such as education and highways, have decreased as a proportion. We all agree that states need better tools to manage Medicaid. In Utah, we have expanded coverage to age 13-17 under a waiver, but now we are fighting with HCFA again over our waiver. The waiver process is fraught with problems.

The NGA proposed formula would allow states to choose their base year (1993, 1994, 1995); the growth formula would be updated annually, and would reflect population changes and inflation. There is also a special grants program for immigrants, and an umbrella fund to protect states.

This proposal is a hard-fought compromise, and it guarantees coverage.

Chiles: We have come here today to present our best attempt to reform Medicaid. It does not repeal Title 19. It is an outline, and we know that it can be improved. It is difficult to replace 30 years of hard work.

It guarantees individual coverage; with few exceptions, those eligible today will remain eligible. It is important to retain the safety net. States need the flexibility to tailor the program to fit their needs, but we don't want flexibility to slash the program. There are two key principles: flexibility and a federal-state partnership for financing.

The umbrella fund is an entitlement – it is not capped or appropriated. States must have adequate resources.

We must all work together.

Engler: We must have Medicaid reform. The NGA proposal creates a new law – an entitlement to states, who promise to guarantee coverage. There is no right to federal court, which protects states from unelected federal judges making essential program decisions. States will negotiate the appropriate legal process with the Secretary of HHS. The NGA plan will free states from waivers.

Romer: [Gov. Romer drew a diagram of the financing mechanism.] There is still much to be clarified:

- We must address amount, duration and scope, as the guarantee of coverage is meaningless without it;
- We have much to do to define disability;
- Reducing the maximum state share from 50% to 40% is probably not going to work.

We have to tone down our rhetoric, and compromise. For example, I believe that kids 13-18 should be covered, but I had to compromise.

QUESTIONS/ANSWERS

Bliley:

Q: Governor Thompson, what was the key to resolving thorny issues?

A: We had to be bipartisan, not use buzzwords and phrases like "block grants" and nothing was agreed to until everything was agreed to.

Q: Governor Chiles, how would you implement an agreement that contained the essential elements of the NGA proposal?

A: We would expand managed care, and use the savings to expand coverage to the working poor.

Q: Governor Miller, what would happen if there is no Medicaid reform?

A: In Nevada, we would probably go off the cliff in the next decade. We must have an umbrella fund in Nevada because our Medicaid population is growing so rapidly.

Waxman:

Q: The funding formula has four components: base year, growth amount, special alien grant, and the umbrella. Are the umbrella and growth amount uncapped?

A: (Romer) Yes.

Q: Do you all agree?

A: (Leavitt) The umbrella is uncapped, but the growth limit is capped.

Q: Is growth based on enrollment?

A: (Romer) It is based on a per person calculation.

Q: What happens if the growth estimate is too high, and states are given too much money?

A: (Romer) States get to keep the excess.

A: (Leavitt) States must spend their match, and excess funds must go to program expansion.

Billirakis:

Q: What health related priorities have your states abandoned because of federal mandates? How would the NGA plan address this?

A: (Thompson) In Wisconsin, we have a Cadillac plan. We want to change to a Buick plan, and use the savings to expand coverage.

Q: If you change from Cadillac to Buick coverage, you would still have good coverage?

A: (Thompson) Yes.

A: (Leavitt) We want to go from VW coverage to Cadillac coverage in Utah.

A: (Engler) With reforms, we could cover an additional 30,000 kids, and expand home health services to the elderly. We cannot lock in costs from the current failing system.

Schaefer:

Q: Are dollars to states controlled by governors or state legislatures?

A: (Thompson) We haven't gotten to that detail yet, but probably every state will go through their legislature.

Q: Under the current system, some states get more money than others. Does the NGA proposal make any attempt to even out funding?

A: (Romer) DSH is not in the base. It will increase each year, up to 12% of a state's total Medicaid expenditures.

A: (Leavitt) Questions of formula are difficult. Our formula tries to remedy disparities.

A: (Miller) The basic answer to your question is "No."

A: (Thompson) DSH is in the base -- that's NGA policy.

A: (Romer) The reason I see DSH as separate is because the umbrella fund pays on a per person basis, and you cannot include DSH in the umbrella calculation.

Waxman:

Q: Is DSH in the base?

A: (Romer) DSH is in the base for purposes of calculating the annual growth rate. But it is not in the base for purposes of determining the per person umbrella payment.

Q: How does DSH grow? Inflation, or some other factor?

A: (Romer) We haven't discussed that detail. We are trying to control DSH.

A: (Engler) There is no increase to DSH over 12% of total program expenditures in each state. We have not agreed upon our DSH policy, and we want to discuss that with Congress.

Ganske:

Q: How many of your state legislatures are considering bills to curb abuses in managed care? (four of six governors raise their hands.) Do you think it is appropriate for the federal government to have protections in place, or should it be done state-by-state?

A: (Romer) States should have flexibility, but HHS should approve. There is some role that a national body can play to ensure that the deal is kept.

A: (Engler) HHS could be downsized considerably under this plan -- we could get rid of HCFA. Micro-management by Washington bureaucrats have added billions to the program.

A: (Leavitt) The Secretary should monitor states to ensure that the money is being spent properly.

A: (Thompson) We have to file amendments to change our Medicaid programs. We must streamline this process.

Upton:

Q: What is the expected budget shortfall for your states under the current Medicaid system?

A: (Engler) The state of Michigan is spending \$320 million on Medicaid for Fiscal Year 1997. To meet this amount, the state is diverting funds from other programs, such as education, in order to receive matching funds.

A: (Thompson) The state of Wisconsin currently spends \$125 million on Medicaid annually with an increase of 10% every year.

Q: What changes are you proposing on the financing aspect of the NGA Medicaid plan, specifically, on state matching funds?

A: (Thompson) The states' share would drop from 50% to 40%.

Waxman:

Q: The reduction in amount the states would pay could add up to be a reduction of \$214 billion in state funding over seven years. Obviously, the states have the ability to put in much less money. This could very well lead to a real decrease in services.

A: (Engler) Not all states are at 50% match, some are below 40% today.

Q: The NGA plan has the states own matching contribution reduced, while the minimum federal matching contribution will increase from 50% to 60%.

A: (Engler) Even more money could be saved if "Washington stopped micro-managing" the Medicaid program and "cut out [the] bureaucracy."

A: (Romer) the NGA funding formula was based on the premise that any savings achieved would be designated for health care programs.

Tauzin:

Q: I am curious about the specifics of the Insurance Umbrella coverage in the NGA Medicaid plan.

A: (Leavitt) The Umbrella coverage in the NGA plan is based on projection versus occurrence and would be updated on an annual basis.

A: (Romer) In most cases the insurance Umbrella will be used in case of a economic recession in a particular state.

Oxley:

Q: Is repealing provider taxes going to require states to impose new taxes to help pay for long-term care?

A: (Engler) I do not think the states would have to impose new taxes to make up the difference. I do not think the Federal government should be concerned with what taxes the states impose.

A: (Romer) The states would achieve savings through the flexibility that the NGA program would provide; we need to be efficient.

A: (Engler) Even more saving could be achieved through emphasizing administrative savings.

Greenwood:

Q: What comfort could the Governors provide to advocates for the mentally ill?

A: (Miller) Any state plan must be approved by the Secretary of the Department of Health and Human Services and the states will have the flexibility to possibly enhance services for the mentally ill.

Q: Have you proposed any legislative strategy?

A: (Thompson) We have three main issues we want to see passed by Congress and signed into law by President Clinton. They are Medicaid, welfare reform and employment and training legislation. We feel it is very important for these three bills to be passed and signed into law by next month.

A: (Romer) I believe that Medicaid should be incorporated into the budget bill.

A: (Miller) I think it would benefit Congress to start from scratch. We [the Governors] were not able to get anything done until we cleared the table and eliminated partisan buzzwords and worked in a bi-partisan fashion.

Waxman:

Q: I fear that the end result of the this plan will be less Medicaid funding for vulnerable people. I also fear that millions of people who now have Medicaid coverage, will have less or no Medicaid coverage at all. If the NGA plan repeals Title XIX, it repeals a provision which exempts adult children from paying nursing home costs for their disabled parents. I don't want that and I don't think the governors want that either. Do

you?

A: (Romer) Our plan does not repeal Title XIX, but instead adds a new title. The NGA plan is a work in progress and we will add whatever is necessary to make it work.

A: (Thompson) We have been working and will continue to work very hard in trying to address all the issues.

Q: With Federal funding, there needs to be a Federal/state partnership that must be very specific on the rules. Let me add that under the NGA plan, the disabled may not be covered and 13-18 year olds may not be covered.

A: (Miller) The base and growth funding provides the guarantee that anyone currently covered will continue to receive benefits.

Markey:

Q: I am concerned in funding reductions at both Federal and state levels. I am also concerned in the funding formula where the Federal percentage is higher but it is the states who receive great discretion in administering the Medicaid program. I do not feel it is right to eliminate individual suits on benefits in Federal court. Since the federal government provides most of the funding, the federal government should have more influence regarding policy changes.

A: (Chiles) The current system is out of control, increasing at a rate between 10% and 20% a year. In addition, the current system does not provide the states with the flexibility needed to provide coverage for the working poor.

A: (Leavitt) The federal government created the Medicaid program, but now the program needs to be fixed. The federal government wants a partnership.

Markey:

Okay, but not a silent partnership.

Chairman Bliley closed the hearing by thanking the Governors for their time and efforts. The Governors promised to respond to members written requests and also to possibly return at a later date for additional hearings.

T E S T I M O N Y



Statement of

Governor Tommy G. Thompson, Wisconsin -- Chairman

Governor Bob Miller, Nevada -- Vice Chairman

Governor Lawton Chiles, Florida

Governor John Engler, Michigan

Governor Michael O. Leavitt, Utah

Governor Roy Romer, Colorado

on behalf of

The National Governors' Association

before the

Committee on Commerce

U.S. House of Representatives

on

Restructuring Medicaid: The Governors' Proposal

February 21, 1996

NATIONAL GOVERNORS' ASSOCIATION

Hall of the States • 444 North Capitol Street • Washington, DC 20001-1512 • (202) 624-5300

RESTRUCTURING MEDICAID: THE GOVERNORS' PROPOSAL

Good morning Mr. Chairman and members of the committee. We appreciate the opportunity to appear before you today on behalf of our colleagues, the nation's Governors, to discuss the results of our recent efforts to develop a proposal to restructure Medicaid. We are pleased to report that the proposal we will outline today was adopted unanimously on February 6, at the Winter meeting of the National Governors' Association (NGA) here in Washington and represents the official policy of our organization. This is a most important time. Our charge as elected officials is difficult. Americans expect discipline in federal and state spending, and we have the responsibility to assure that the funds we spend are spent wisely and that they produce a cost-effective return on investment. In no area is such a need greater than in publicly funded health care.

BACKGROUND

For most of the last decade, health care expenditures in the United States have far exceeded overall growth in the U.S. economy. And while medical inflation is declining, public and privately funded health care costs continue to limit the long term economic growth of the nation. For states, the primary impact of health care costs on state budgets has been in the Medicaid program. Annual Medicaid growth over the last decade has been well in excess of 10 percent, and in half of those years annual growth approached 20 percent. Determining the causes of such unbridled growth is difficult. However, major contributing factors include: congressional expansions in the program, court decisions limiting the states in their ability to control costs, policy decisions by states maximizing federal financing of previously state-funded health care programs, and changing demographics.

Restricting the growth of Medicaid is no easy task. Medicaid is the primary source of health care for low income pregnant women and children, persons with disabilities, and the elderly. This year, states and the federal government combined will spend more than \$150 billion in this

program providing care to more than 35 million people. The challenge for the nation, and Governors as the stewards of this program, is to redesign Medicaid so that health care costs are more effectively contained, those that truly need health care coverage continue to gain access to that care while giving states the needed flexibility to maximize the use of these limited health care dollars to most effectively meet the needs of low income individuals.

THE NEW PROGRAM

Within the balanced budget debate, a number of alternatives to the existing Medicaid program have been proposed. The following outlines the NGA proposal. It blends the best aspects of the current program with congressional and administration alternatives toward achieving a streamlined and state-flexible health care system that guarantees health care to our most needy citizens. Since the proposal was unveiled on February 6th, we have had a myriad of questions concerning the details of the proposal. Some of those questions have been answered others remain unresolved. It is not our intent today, to put forth a completed proposal with all of the "I's" dotted and "T's" crossed. Rather, this is an outline and a working document that is meant to be refined through a process of public examination.

Program Goals. The NGA proposal is guided by four primary goals.

- The basic health care needs of the nation's most vulnerable populations must be guaranteed.
- The growth in health care expenditures must be brought under control.
- States must have maximum flexibility in the design and implementation of cost-effective systems of care.
- States must be protected from unanticipated program costs resulting from economic fluctuations in the business cycle, changing demographics and natural disasters.

Eligibility. Coverage remains guaranteed for

- Pregnant women to 133 percent of poverty.
- Children to age 6 to 133 percent of poverty.
- Children age 6 through 12 to 100 percent of poverty.
- The elderly who meet SSI income and resource standards.
- Persons with disabilities as defined by the state in their state plan. States will have a funds set-aside requirement equal to 90 percent of the percentage of total medical assistance funds paid in FY 1995 for persons with disabilities.
- Medicare cost sharing for Qualified Medicare Beneficiaries.
- Either:
 - Individuals or families who meet current AFDC income and resource standards (states with income standards higher than the national average may lower those standards to the national average.); or
 - states can run a single eligibility system for individuals who are eligible for a new welfare program as defined by the state.

Consistent with the statute, adequacy of the state plan will be determined by the Secretary of HHS. The Secretary should have a time certain to act.

Coverage remains optional for:

- All other optional groups in the current Medicaid program.
- Other individuals or families as defined by the state but below 275 percent of poverty.

Benefits. The following benefits remain guaranteed for the guaranteed populations only.

Inpatient and outpatient hospital services, physician services, prenatal care, nursing facility services, home health care, family planning services and supplies, laboratory and x-ray services, pediatric and family nurse practitioner services, nurse midwife services, and Early and Periodic Screening, Diagnosis and Treatment Services. (The

"I" in EPSDT is redefined so that a state need not cover all Medicaid optional services for children.)

At a minimum, all other benefits defined as optional under the current Medicaid program would remain optional and long term care options significantly broadened.

States have complete flexibility in defining amount, duration, and scope of services.

Private Right of Action. The following are the only rights of action for individuals or classes for eligibility and benefits. All of these features would be designed to prevent states from having to defend against suits on eligibility and benefits in federal court.

- Before taking action in the state courts, the individual must follow a state administrative appeals process.
- States must offer individuals or classes a private right of action in the state courts as a condition of participation in the program.
- Following action in the state courts, an individual or class could petition the U.S. Supreme Court.
- Independent of any state judicial remedy, the Secretary of HHS could bring action in the federal courts on behalf of individuals or classes but not for providers or health plans.
- There should be no private right of action in federal court for providers or health plans.

Service Delivery. States must be able to use all available health care delivery systems for these populations without any special permission from the federal government. States must not have federally imposed limits on the number of beneficiaries who may be enrolled in any network.

Provider Standards and Reimbursements. States must have complete authority to set all health plan and provider reimbursement rates without interference from the federal government or threat of legal action of the provider or plan. The Boren amendment and other Boren-like statutory provisions must be repealed. "One hundred percent reasonable cost reimbursement" must be phased out over a two year period for federally qualified health centers and rural health

clinics. States must be able to set their own health plan and provider qualifications standards and be unburdened from any federal minimum qualification standards such as those currently set for obstetricians and pediatricians. For the purpose of the Qualified Medicare Beneficiaries program, the states may pay the Medicaid rate in lieu of the Medicare rate.

Nursing Home Reforms. States will abide by the OBRA '87 standards for nursing homes. States will have the flexibility to determine enforcement strategies for nursing home standards and will include them in their state plan.

Plan Administration. States must be unburdened from the heavy hand of oversight by the Health Care Financing Administration. The plan and plan amendment process must be streamlined to remove HCFA micromanagement of state programs. Oversight of state activities by the Secretary must be streamlined to assure that federal intervention occurs only when a state fails to comply substantially with federal statutes or its own plan. HCFA can only impose disallowances that are commensurate with the size of the violation.

This program should be written under a new title of the Social Security Act.

Provider Taxes and Donations. Current provider tax and donation restrictions in federal statutes would be repealed. Current and pending state disputes with HHS over provider taxes would be discontinued.

Financing. Each state will have a maximum federal allocation that provides the state with the financial capacity to cover Medicaid enrollees. The allocation is available only if the state puts up a matching percentage (methodology to be defined.) The allocation is the sum of four factors: base allocation, growth, special grants (special grants have no state matching requirement) and an insurance umbrella, described as follows:

1. Base. In determining base expenditures, a state may choose from the following - the 1993 expenditures, 1994 expenditures, or 1995 expenditures. Some states may require special provisions to correct for anomalies in their base year expenditures.

2. Growth. This is a formula that accounts for estimated changes in the state's caseload (both overall growth and case mix) and an inflation factor. The details of this formula are to be determined. This formula is calculated each year for the following year based on the best available data.
3. Special Grants. Special grant funds will be made available for certain states to cover illegal aliens and for certain states to assist Indian Health Service and related facilities in the provision of health care to Native Americans. States will have no matching requirement to gain access to these federal funds.
4. The Insurance Umbrella. This insurance umbrella is designed to ensure that states will get access to additional funds for certain populations if, because of unanticipated consequences, the growth factor fails to accurately estimate the growth in the population. Funds are guaranteed on a per-beneficiary basis for those described below who were not included in the estimates of the base and the growth. These funds are an entitlement to states and not subject to annual appropriations.

Populations and Benefits. Access to the insurance umbrella is available to cover the cost of care for both guaranteed and optional benefits. The umbrella covers all guaranteed populations and the optional portion of two groups—persons with disabilities and the elderly.

Access to the Insurance Umbrella. The insurance umbrella is available to a state only after the following conditions are met.

1. States must have used up other available base and growth funds that had not been used because the estimated population in the growth and base was greater than the actual population served.
2. Appropriate provisions will be established to ensure that states do not have access to the umbrella funds unless there is a demonstrable need.

5. Matching Percentage. With the exception of the special grants, states must share in the cost of the program. A state's matching contribution in the program will not exceed 40 percent.
6. Disproportionate Share Hospital Program. Current disproportionate share hospital spending will be included in the base. DSH funds must be spent on health care for low income people. A state will not receive growth on DSH if these funds constitute more than 12 percent of total program expenditures.

Provisions for Territories. The National Governors' Association strongly encourages Congress to work with the Governors of Puerto Rico, Guam, and other territories towards allocating equitable federal funding for their medical assistance programs.

CONCLUSION

We believe that this proposal meets our four goals. The basic health care needs of the nation's most vulnerable populations would be guaranteed. The growth in health care expenditures would be brought under control. States would have maximum flexibility in the design and implementation of cost-effective systems of care, and states would be protected from unanticipated program costs resulting from economic fluctuations in the business cycle, changing demographics and natural disasters.

We would like to thank you Mr. Chairman and members of the committee for giving us the opportunity to appear before you today to offer our proposal to restructure this most important program. Before answering questions, we would like to leave you with the following thoughts.

- First, while we focused today on Medicaid, it is critical that Congress pass and the President sign the three major bills of welfare reform, Medicaid, and employment and training during the next month. States must have the ability to enact budgets that fully integrate these three programs in order to provide cost-effective services that assist in moving people from welfare to work.

- Second, both Republican and Democratic Governors support significant changes in the Medicaid program. We believe it is possible to restructure the program in a way that lets states innovate while we continue to meet the needs of our most vulnerable citizens. Our hope is that we have provided you with a framework you can use to make these changes. We also hope that you will use the same bipartisan approach that we used in developing our policy.
- Third, we are prepared to work with you as soon as possible to convert our principles into legislative language. We know the importance of making these changes because our budgets are at stake. A Medicaid reform proposal that is consistent with the principles we have included in our policy will receive bipartisan support from Governors.
- Finally, we would like to say that there is an urgency that you enact this legislation over the next month. Your window of opportunity is very small. Shortly, you will need to begin the budget process for fiscal year 1997. We are concerned that failure to act now means that this is unlikely to happen for two to three years since next year is an election year. States spend on average about 25 percent of their own state money on welfare and Medicaid and many Governors have incorporated restructured programs into their fiscal 1997 budget. We encourage Congress to take action consistent with our proposal. Failure to do so could cause major problems in a number of states.

Once again, thank you for your attention. We are happy to answer any questions.

SENATE FINANCE, FEBRUARY 22

TO: Interested Parties

FR: Susan Emmer & Joe Warden

RE: Feb. 22 Senate Finance Committee hearing on Welfare & Medicaid Reform

DATE: February 22, 1996

Below are transcribed notes from today's hearing. Six governors testified: Tommy Thompson (R-WI), John Engler (R-MI), Tom Carper (D-DE), Lawton Chiles (D-FL), Bob Miller (D-NV), and Roy Romer (D-CO). The Republican members in attendance were: Roth, Chafee, Hatch, Simpson, Gramm and Nickles. The Democrats in attendance were Rockefeller, Breaux and Conrad.

OPENING STATEMENT

Roth: Thanked the governors and appreciate their extraordinary contributions to Medicaid and welfare reform. The governors are here today because their work was not completed after the NGA unanimously approved both Welfare and Medicaid reform on February 6. Nor will their work be completed after today. There are many tough choices ahead, for both Democrats and Republicans. Medicaid reform is welfare reform. Medicaid is the largest part of welfare reform. The NGA proposals will end the cycle of dependency. Medicaid is part of the formula for returning people to work. These proposals can provide a fresh start for Congress and the President. I look forward to working on this.

GOVERNORS' STATEMENTS

Thompson: An honor for Democrats and Republicans to have an opportunity to display a workable and bipartisan plan. We have been meeting since mid-December. The six Governors spent over 100 hours in meetings working on Medicaid and many hours on welfare reform. We made tremendous progress after we agreed not to use buzzwords and phrases such as "individual entitlement" and "block grants." Instead, we referred to them as program X and program Y.

We reached a bipartisan compromise working together on Medicaid and welfare reform. The welfare reform plan will put more people to work, while also providing much needed flexibility to the states.

Medicaid will provide guaranteed coverage for our most vulnerable people. Tax dollars will be spent in a more effective manner. This is not a one size fits all program. The states are much more capable of administrating it. We must give states flexibility so they can get their programs and their costs under control. It is critical that Congress passes and the President signs welfare, Medicaid, and employment and training reform as soon as possible.

It is urgent that Congress acts immediately. If it does not happen now, it could be another 2-3 years. States spend between 25%-30% of their budgets on these programs. The current system is inefficient and broken. If Congress doesn't move, states will suffer.

Miller: We are providing an outline for Medicaid and welfare reform proposals. We have identified a principle to reach a compromise and successfully Graft a blueprint of a plan that has the unanimous support of the NGA. Medicaid reform could help resolving the budget problems at the federal level.

The states and the federal government must guarantee coverage to our most vulnerable people. State must have flexibility. And costs need to be brought under control. In my state of Nevada, Medicaid costs have increased from \$181 million in 1991 to \$450 million in 1995. States must be protected from economic downturns; the federal government must uphold its financial responsibility to the states. The NGA proposal can be improved, but the important point is that this is a compromise. Bipartisanship is the compass to guide us all.

Engler: These proposals are a step forward and lay the groundwork for the future. The current system holds people down, punishes parents and the working poor while rewarding women who have children out of wedlock. We must return the responsibility to where it belongs -- at the state level. The NGA welfare plan used the conference report for H.R. 4 as a starting point. Work is required in our plan and we look to the private sector for the best jobs. We also want the flexibility to strengthen and expand the program. The NGA plan has a family cap, raises the hardship extension and provides funding for child care and transportation. We have a plan that promotes responsibility and protects children.

We need a more efficient program. I have caseworkers in my state who spend 80% of their time pushing paper and only 20% of their time with clients. This is unacceptable.

Carper: We have worked across party lines to create this proposal. Our plan rewards work and encourages responsibility. A good litmus test for welfare is whether it helps people prepare for and find work. The NGA

plan doubles the contingency fund, provides flexibility for states and contains a performance bonus which rewards successful state programs. We urge Congress to pass child support enforcement. We also ask the Senate to restore funding for child care. The work participation rate provides for 25 hours per week rather than 30 or 35 hours.

Chiles: We have come here today to present our best attempt to reform Medicaid. It is an outline of what governors think the future of the Medicaid program should be, and we know that it can be improved.

Our plan provides a guarantee of eligibility to the individual. We maintain the strength of current law for eligibility. If you are eligible for Medicaid today, with few exceptions, you will be eligible under this new program. It is important to maintain a meaningful safety net on benefits. States need the flexibility to tailor the program to fit their needs. We hope that will enable us to expand the safety net to the working poor, who, by and large, have no health coverage today.

Our entire compromise is constructed around two fundamental principles: flexibility and a federal-state partnership for financing. These two principles must be linked. You cannot have true flexibility with a federal partner that can bail-out in the tough times. And, you cannot achieve the savings you need without allowing states the flexibility to run the Medicaid program more efficiently.

The umbrella fund is an entitlement -- it is not capped or appropriated. States must have adequate resources.

Romer: [Gov. Romer drew a diagram of the financing mechanism.] This is the basis of the NGA proposal; it is a work in progress. The allocation is the sum of four factors: base allocation, growth, special grants and an insurance umbrella. The umbrella is for unanticipated situations that require additional funds on a per-person basis. The special grant funds are for Native Americans and illegal aliens. The states have the flexibility of using excess funds in their growth allocations on other programs.

Engler: My state of Michigan is ready to transform Medicaid. In 1980, Medicaid was eight percent of my state's budget. Now, it is 20% and by the end of the decade, it will be 30%. The NGA proposal creates a new law -- an entitlement to states, not individuals, who promise to guarantee coverage. There is no right to federal court, which will prevent states from having to defend against suits in federal court. States will negotiate the appropriate legal process with the Secretary of HHS. The NGA plan will free states from waivers.

QUESTIONS/ANSWERS:

(Although not included in the Q & A below, every member thanked the NGA for their involvement in the budget process.

Roth:

Q: The welfare reform conference report would save \$6-10 billion, according to CBO. Discussions with CBO suggest that the NGA plan would cost \$15-20 billion. Can the NGA modify their proposal to deal with this difference?

A: (Carper) It is unclear whether we can modify our proposal in this regard. We didn't touch the illegal alien issue, clearly there are savings there. Governor Chiles has a strong interest in this issue. The NGA plan added costs of \$4 billion for child care funding and \$4 billion for the contingency fund. One thing we know is that to make welfare work as a transitional, back to work program, we need child care funding, health insurance and transportation to work for welfare recipients. Also, the key for the NGA is, in putting policy forward, not getting CBO scoring.

A: (Engler) Governors were not unanimous on the illegal alien issue. Also, we could get more savings out of the EITC provision. Again, the key for the NGA is policy; we know our plan will save money over time.

Breaux:

Q: The solution on welfare and Medicaid must involve a sharing of benefits, burdens, and costs. But, the NGA plan includes a \$2 billion contingency fund and a \$4 billion child care fund, neither which appear to require a state match. This is not a sharing of the benefits and burdens.

A: (Chiles) The Governors are all trying to take persons off of welfare. A Florida demonstration has been successful but it costs more than welfare to keep people off the rolls because of child care and health care costs. The state already pays for a lot of this child care, but states can't do it without some federal dollars.

Q: Could a state spend less on contingency fund and child care in 1996 than 1995, reducing the state share of costs but not the federal (maintenance of effort)?

A: (Thompson) Under the current system, when states reduce welfare, through putting people to work, they get less federal money. So, states need flexibility to change the system. However, if state spending goes down, federal spending should go down.

A: (Miller) The answer to your question is that the contingency fund requires a state match while the child care funding does not require a state match. The child care funding was included in response to

advocacy groups that felt the H.R. 4 funding level was too low.

Chafee:

Q: Did the NCA proposal deal with the illegal alien issue?

A: (Engler) No.

Q: Will the NCA work with Congress on this issue?

A: (Engler) Yes.

Q: The Senate version of the welfare reform legislation required a maintenance of effort on child care funding and on the contingency fund. States could not spend less than they spent in earlier years. Does your plan include a maintenance of effort?

A: (Engler) Our plan includes a match on contingency funding as well as a maintenance of effort. It does not include these for child care funding.

Q: Under your plan, adoption and foster care assistance remain an entitlement. Other child welfare programs are wrapped into a child protection block grant. A state could opt, however, to roll foster care and adoption assistance into a block grant. States also can choose to switch back and forth from entitlement to block grant each year. Isn't this proposal rather state-focused? Why was this included?

A: (Carper) A block grant might not work for states. If this happens, states should be able to go back to an entitlement.

A: (Engler) We are open to not allowing states to change back and forth every year.

Rockefeller:

Q: By allowing an optional block grant and for states to change each year, how can you ensure that abused, neglected kids get care, especially in states with high unemployment, where children and families are more at risk? What if caseload goes up? Or, if optional grant dollars are used up?

A: (Carper) This is not an optional block grant. If a state runs out of money, then they can switch from a block grant back to an entitlement. If a state moves to a block grant, they will have to comply with a 100% maintenance of effort and continue to comply with federal standards.

A: (Engler) The foster care and adoption assistance programs are open-ended entitlements. The remainder of the child protection programs are rolled into a block grant, but currently they are not entitlement programs. State can opt, however, for a foster care capped entitlement.

Q: But, Governor Engler, if a state uses a block grant won't it be tempted to deal only with crises, whereas with an entitlement a state could be more prevention-oriented?

A: (Engler) The current foster care system is crisis oriented.

Q: But, there is lots of prevention post crisis, before a family would move to a foster care option.

A: (Engler) The costs of foster care -- economical and emotional -- are high. Once a child goes into the foster care system, he or she keeps coming back in. States need flexibility to create a solution to this problem while keeping protections in place.

Q: Does the NGA plan contain a guarantee to Medicaid for beneficiaries? On page 2, the proposal reads that Medicaid benefits are guaranteed. On page 3, the plan provides for state flexibility by allowing states to define the amount, scope, and duration of benefits, in essence, making these benefits optional.

A: (Engler) The Secretary must approve a states' plan on amount, scope, and duration of benefits, providing the federal government with veto power.

Gramm:

Q: Because taxpayers have to pay for welfare services, we need reform of the program. As part of the reform, we need to consider whether we should continue to mandate coverage. Regarding the insurance umbrella, the only way a state breaks into it is with a change in the eligible population, right? Another situation, for instance a disaster will not cause a state to break into the insurance umbrella.

A: (Miller) Actually, a disaster could push a state into the insurance umbrella. The key is another person become eligible for Medicaid, then the state gets more funding. If another person becomes eligible because of a hurricane, then a state can go into the umbrella fund.

Q: Is the insurance fund subject to a state match requirement?

A: (Miller) Yes.

Q: And the trigger is the number of eligible people that a state estimates?

A: (Miller) Yes.

Q: But, won't the state have other flexibility regarding eligibility? Does the NGA plan protect states that raise eligibility, thus triggering the umbrella fund?

A: (Miller) States can not raise eligibility in order to go into the umbrella fund.

Q: The umbrella is limited -- that is good.

Conrad:

Q: Under the NGA plan there are a series of ways that the state taps the federal treasury, while reducing their efforts. The block grant, then, looks like a blank check, for instance, because it does not require a state match for the federal child care funding.

A: (Carper) CBO scored the child care provision in H.R. 4 at a low level -- \$6 billion. States already more than match child care spending.

Q: The bottom line, though, is that under the NGA plan no state match is required for the child care funding. Another area where we have had a bad experience is in provider taxes. In the past, states have gamed the process in this area. The NGA plan repeals all protections in this area.

A: (Engler) Yes. Because of the formula changes, the federal/state relationship becomes more predictable. States, with their new flexibility will use available dollars, eliminating the gaming incentives. Also, incentives to game disappear as DSH disappears under the NGA proposal.

Q: Some states used provider taxes to game the system and increase their federal match in the past.

A: (Chiles) There is no protection against this. The repeal of the provider taxes and donations law was contained in the NGA plan not at the behest of the 6 Governors here but all 50 Governors. Congress should look at this provision closely.

Q: Congress can not pass a Governor's wishlist. We can not allow states to scam the system.

A: (Thompson) Under the NGA plan, there is no longer a DSH program. That is where states used provider taxes in the past. So this is no longer a concern.

Q: Under the NGA proposal, there are 4 places where the state can game the system. I am concerned about this. I will submit you the rest of my questions on the 4 areas in writing.

A: (Thompson) If Congress see problems with the NGA plan, we will try to resolve them in a bipartisan fashion. We are not here to game the system, but improve Medicaid.

Simpson:

Q: In addition to the Governors, I commend the Chafee/Breaux effort. It is hard to pass a budget plan, as evidenced from the Senate effort. When people label an effort as evil, then the entire process freezes. (Advocacy groups condemned the NGA proposal and earlier budget plans). But, as we continue our "evil" efforts, the debt limit continues to go up. How should we and the NGA deal with the interest group horror stories that hurt the process?

A: (Romer) The NGA plan is a work in progress. The disability and the

amount, duration and scope issues are still being looked at -- they are not done. Over time, the NGA will close in on the open areas.

A: (Carper) In Delaware, we help welfare recipients when they start to work, with child care and transition health insurance -- 2 years of Medicaid. Other states have similar programs.

A: (Engler) The current system is failed. Our burden is to fix it. Anyone can point out the NGA weaknesses, but the status quo isn't working. The NGA proposal is better (than the status quo) for the elderly, disabled, families, the poor, and children, than the current proposal. The final proof of states' intentions is that 62% of Medicaid spending is optional. The states are not engaged in a race to the bottom.

Nickles:

Q: Has CBO scored the NGA proposal yet?

A: (Thompson) No. The NGA goal was to develop policy. Congress can worry about the savings issue.

A: (Miller) If there is a concern about savings, the plan's yearly inflation factor can be adjusted.

Q: Under the NGA plan, who determines eligibility?

A: (Miller) The state determines disability. But disability and the amount, scope, and duration issues are still open. Under our plan, the state defines amount, scope, and duration and the Secretary enforces it. The individual has a right to sue in state court as well as access to an administrative process. The Secretary has a right to sue on behalf of an individual or a class of individuals. The scope of the Secretary's role is still an open issue. Her approval, however, is meaningless if we do not define it.

A: (Chiles) States must spend 90% of what they spent in the past.

A: (Thompson) States must be the ones to define disability because the Secretary can be arbitrary in her definitions. The states already determine disability criteria for workers compensation. Also, 11 states do not use the SSI disability definition and have their own. The federal record on SSI is not laudable -- look to the alcohol and drug abusers that receive SSI.

Q: Why do you support repeal of the Boren amendment?

Q: (Thompson) Boren causes litigation, drives up costs. The court has established a floor that should have been a ceiling. Unfortunately, HCFA and the courts interpreted this another way. The courts should not interpret what a provider should be paid. **Repeal of Boren is the number one priority of the Governors.**

Roth:

Q: Has the NGA received any signal from the White House on the two proposals?

A: (Miller) Both President Clinton and Senator Dole supported the concept of our plan in speeches to the NGA.

A: (Romer) It is important to flag problem areas of the proposals. The White House has expressed concern with the state matching rate being reduced from 50% to 40%.

A: (Carper) The President pledged to change welfare as we know it. He has supported welfare reform. Our plan makes the changes he has supported.

Q: If the states have flexibility in the account, duration and scope of the program, what criteria does the Secretary use to approve or disapprove?

A: (Miller) We realize there has to be a threshold. We need to come up with the criteria.

A: (Chiles) Right now, there are just too many lawsuits. We are spending too much on federal lawsuits.

Q: Has HCFA become too burdensome?

A: (Thompson) People don't understand what we have to go through. It's Hell. 15,000 pages of regulations. Our states fill out 8,000 reports annually. If we want to make any changes, we must file an amendment.

Q: Is this a bipartisan concern?

A: (Chiles, Miller) Yes.

A: (Romer) We need more flexibility. We need to define amount, duration and scope.

A: (Engler) There is a dual standard between states. We need a national set of guarantees.

Breaux:

Q: I have a concern with the guaranteed basic health benefit. Specifically, I have questions regarding the who, what and right of action aspects and how to ensure these guarantees are met. I have no problem with the limiting the right of action to state courts, but I do have a concern regarding not covering 13 year olds and above. What is the standard of whether package will be adequate? What will it be measured against?

A: (Chiles) We need to work with Congress. Congress can give us some reasonable standards.

A: (Thompson) We are working on it. Maybe the guarantee health benefit will be a state's minimum HMO policy. Secondly, some states will cover all 13-18 year olds, while other states may choose to cover the

working poor instead. The point is that one size doesn't fit all. It should be up to the states' discretion.

A: (Romer) We need to put all ideas on the table. Congress needs to think about this, under this formula.

Q: On the states' definition of disability. I am concerned about 50 states having 50 different definitions of disability.

A: (Thompson) Give us the opportunity to set our own standards. Don't lock us in to just one standard.

Q: Are you trying to have one (definition of disability) or fifty different ones?

A: We are trying to set a threshold that will meet the Secretary's approval.

A: (Romer) Some wanted a federal definition and some didn't.

A: (Chiles) Everyone wants a change from what we have now.

Chafee:

Q: I am concerned with the repeal of the provider tax law. Will you address this?

A: (Engler) I think that without the DSH, the provider tax isn't a problem.

A: (Thompson) The DSH is limited to 12% growth.

A: (Romer) We have the provider tax on the table as a compromise.

Q: What if you don't provide for the disabled, and if the Secretary has no federal standard to measure against?

A: (Thompson) There is a provision in the plan where the states must set aside 90% of their current funds for the disabled.

Rockefeller:

The phrase 'work in progress' has been used a number of times today, and there are some obvious differences between the governors. What is clear, however, is that this is a bipartisan agreement. It will come down to us (members of the Finance Committee). I hope we can work in a bipartisan fashion on this committee. I know that during the welfare debate (H.R. 4) Senator Moynihan felt left out. My staff has felt left out. Several Democrats on the committee have felt left out of the process. We need to do as good a job as these governors. We need to work together if we are to reach an agreement.

Roth:

I want to work with all the members of this committee. The governors have done an excellent job. I am interested in passing a bill

that will be signed into law.

Hatch:

Q: I have some concerns about Native Americans, on both welfare reform and Medicaid. I also have a concern regarding private right to action. As chairman of the Judiciary Committee, I am concerned there may be a constitutional problem with no federal review.

A: (Thompson) There is a provision which allows the Secretary of HHS to initiate either an individual or class action federal lawsuit.

A: (Miller) Governor Leavitt feels very strongly about this. He believes the states are spending too much money on defending federal court cases. He would be willing to discuss this with you.

A: (Engler) The Judiciary Committee staff could look at this and get back to us.

A: (Chiles) If staff thought there was a problem, we would listen. Even if individuals were allowed to have access to federal court, we hope providers would be cut off.

Simpson:

I will have some future questions on nursing home standards. State requirements are sometime more onerous than federal requirements.

Chairman Roth adjourned the hearing by thanking the governors for their time and efforts.

UNITED STATES SENATE
COMMITTEE ON FINANCE

Hearing on the bipartisan proposal of the Governors on Welfare and Medicaid

Thursday, February 22, 1996; 10:00 a.m.
Room SD-215 Dirksen Senate Office Building

WITNESS LIST

A panel consisting of:

The Honorable Tommy G. Thompson, Governor of the State of Wisconsin; and
Co-Chair, National Governors' Association.

The Honorable Bob Miller, Governor of the State of Nevada; and Co-Chair, National
Governors' Association.

The Honorable Tom Carper, Governor of the State of Delaware.

The Honorable Lawton Chiles, Governor of the State of Florida.

The Honorable John Engler, Governor of the State of Michigan.

The Honorable Roy Romer, Governor of the State of Colorado.

T E S T I M O N Y



Statement of

Governor Tommy G. Thompson, Chairman
Governor Bob Miller, Vice Chairman
Governor Tom Carper, Delaware
Governor Lawton Chiles, Florida
Governor John Engler, Michigan
Governor Roy Romer, Colorado

before the

Committee on Finance
United States Senate

on

Restructuring Welfare and Medicaid: The Governors' Proposal

on behalf of

The National Governors' Association

February 22, 1996

NATIONAL GOVERNORS' ASSOCIATION

Hall of the States • 444 North Capitol Street • Washington, DC 20001-1512 • (202) 624-5300

RESTRUCTURING WELFARE AND MEDICAID

Thank you Mr. Chairman. We appreciate the opportunity to appear before you today to present the National Governors' Association's (NGA) Policy on Welfare Reform and Medicaid. Before we address the specifics of our policies, however, we would like to make a few general comments.

- First, Governors believe it is critical that Congress pass and the President sign the three major bills of welfare reform, Medicaid, and employment and training during the next month. States must have the ability to enact budgets that fully integrate these three programs in order to provide cost-effective services that assist in moving people from welfare to work.
- Second, Republican and Democratic Governors worked closely together to craft and pass the NGA welfare policy. To maintain the integrity of what is a strong bipartisan agreement, we believe it is imperative that the congressional process also be bipartisan. Our policy builds upon the work of Congress and adds important changes to promote work and protect children.
- Third, the welfare and Medicaid policies were passed unanimously by the nation's Governors, and therefore we have strong bipartisan support for our positions. However, that support may be withdrawn if Congress or the administration makes major changes to our proposals.
- Additionally, while we believe that we have provided you with a considerable amount of detail, we realize that there will be additional questions as you proceed toward drafting the legislation. In some areas we may be providing you with additional details. Nevertheless, we feel very strongly that the nation's Governors want to be deeply involved in working with you to develop and review legislative language. We want to do this on a strong bipartisan basis. We understand that you intend to move quickly and we are prepared to work hard to

meet your schedule. It is critical, however, that we keep all Governors informed so that we will be able to support the final bill.

- * Finally, we would like to say that there is an urgency that you enact this legislation over the next month. The window of opportunity is very small. Shortly, you will need to begin the budget process for fiscal 1997. Also, failure to act now means that any reform is unlikely to occur for two to three years, since this is an election year. States spend on average about 25 percent of their own state money on welfare and Medicaid, and many Governors have incorporated restructured programs into their fiscal 1997 budget. The failure of Congress to move forward will cause major problems in a number of states.

WELFARE

Now we would like to present to you the National Governors' Association policy on welfare reform which was adopted with unanimous bipartisan support just two weeks ago at our winter meeting. With a unanimous bipartisan voice, the nation's Governors are asking for a new welfare system that allows us to assist individuals in moving from a cycle of dependency to self-sufficiency. We are asking you to give us the flexibility to design our own programs and the guaranteed funding we need at appropriate levels, and we will transform the welfare system into a program of transitional assistance that will enable recipients to become productive, working members of our society.

We believe that our nation's leaders are faced with an historic opportunity and an enormous responsibility to restructure the federal-state partnership in providing services to needy families. The Governors are committed to achieving meaningful welfare reform now, and we believe that Congress and the President share in this commitment. We cannot afford to miss this opportunity. Indeed, for the past year and a half, we have all invested considerable time and energy in reforming federal welfare policy.

Congress has made significant strides toward allowing states to build upon the lessons they have learned through a decade of experimentation in welfare reform. The President, too, gave impetus to welfare reform when he proposed the Work and Responsibility Act more than a year and a half ago, and he has continued to grant waivers to states to facilitate experimentation throughout the ongoing debate on welfare reform.

Today, the nations' Governors come to you with a specific list of recommendations for welfare reform that builds upon the work of both the House and Senate. We urge Congress and the President to join with us in support of this bipartisan agreement that will reallocate responsibilities among levels of government, maximize state flexibility, recreate welfare as a time-limited program leading to work, provide adequate child care, and ensure that all parents assume responsibility for their children.

The NGA policy builds upon and improves the framework for welfare reform laid out in the H.R. 4 conference agreement to the Personal Responsibility and Work Opportunity Act. The conference agreement contains many elements of welfare reform supported by the Governors.

- It defines welfare as a transitional program leading to self-sufficiency and provides time-limited cash assistance to beneficiaries.
- It recognizes that the best work requirement is a private sector job but that subsidized jobs and community service are appropriate in some instances.
- It provides guaranteed and predictable funding with a contingency fund for states' cash assistance programs during periods of economic downturn.
- It allows flexibility for states to expand programs to encourage family stability and reduce teen pregnancy.
- It provides flexibility for states to design their own benefit levels, eligibility criteria, and earned income disregards in their cash assistance program.

- It supports improved child support enforcement efforts, particularly for interstate cases.
- It permits improved coordination and conformity between a state's cash assistance program and the Food Stamp program.

We are very pleased that the conference agreement contains so many provisions that reflect our concerns and priorities and we applaud the progress you have made. However, in order for the nation's Governors to support the H.R. 4 conference agreement, we believe further changes must be made based largely on the following principles:

- Welfare reform must foster independence and promote responsibility.
- Children must be protected throughout the restructuring process.
- States must be protected during periods of economic distress.
- Given agreement on broad goals, states must not be subject to overly prescriptive standards.

The welfare reform policy adopted by the National Governors' Association includes specific recommendations to address these concerns. They are outlined below.

FUNDING FOR CHILD CARE

The Governors propose an additional \$4 billion in mandatory spending for child care for the fiscal 1997 through fiscal 2002. This funding would be part of the base funding for child care and would not require a state match. The Governors are strongly united in their belief that adequate child care is a critical component in the success of any welfare-to-work effort. In fact, access to child care is by far the number one barrier to independence. Our experience has shown us that without safe and reliable child care, a young mother will not be able to participate in employment training, find work, or keep a job. The Governors believe that the current funding provided in the H.R. 4 conference agreement is not sufficient to meet the child care needs of welfare recipients engaged in work activities, individuals who are transitioning from welfare to work, and those who are at-risk of going onto welfare. Without

additional commitment from the federal government for child care, states may be forced to choose between providing child care for the working poor or providing child care for welfare recipients.

WORK REQUIREMENTS

The Governors propose greater flexibility in meeting the work participation requirements. Prescriptive and narrowly drawn requirements will hamper the states' ability to design work programs that are appropriate to their unique economic situation. We have several recommendations in this area.

- First, the Governors believe strongly that when states are successful in moving individuals from cash assistance to work, these individuals should be included in the work participation rate calculation as long as they remain employed. Discounting these individuals from the work participation rate seems contradictory to the goals of welfare reform.
- Second, the number of hours of participation required for purposes of meeting the work participation rate in future years should be 25 hours a week, rather than the proposed increase to 30 and 35 hours a for single-parent families and the 35 hour participation requirement for two-parent families. Further, states should be given the option to limit the required hours of work to 20 hours a week for parents with a child below age six. Many states will, in fact, set higher hourly requirements, but this flexibility will enable states to design programs that are consistent with local labor market and training opportunities and the availability of child care. Lowering hourly requirements for families with young children is also consistent with broader trends in society where a large proportion of women with young children are working part-time.
- Finally, in the work area, the Governors propose that job search and job readiness be allowed to count as a work activity for up to twelve weeks, rather than just in the first

four weeks of participation. States have found that job search is not only effective when a recipient first enters the program, but also after the completion of individual work components and placements.

CONTINGENCY FUND

The Governors propose that an additional \$1 billion be added to the contingency fund for state welfare programs. We believe that states should have access to additional federal matching funds during periods of economic downturns and increases in unemployment or child poverty. During these times, some states may not have the fiscal capacity to meet increases in demand for assistance without an additional financial commitment from the federal government. Given the historical volatility of the caseload throughout economic cycles and the difficulty in projecting future changes in the economy, we believe the additional \$1 billion is necessary.

Our policy also calls for the addition of a second trigger option in the contingency fund that would allow a state to qualify for the fund if the number of children in the food stamp caseload increased by 10 percent over fiscal 1994 or fiscal 1995 levels. This trigger is meant to serve as a proxy for increases in child poverty. The 75 percent maintenance-of-effort requirement for the cash assistance block grant applies to the contingency fund and a state would draw down contingency funds on a matching basis.

PERFORMANCE BONUSES

The Governors' proposal includes performance incentives in the form of cash bonuses to states that exceed specified employment-related performance target percentages. We believe that it is appropriate to reward states that have high performance. However, these bonuses would not be funded out of the block grant base but would receive separate, mandatory funding.

FLEXIBILITY

The NGA Welfare Reform Policy also contains a number of specific proposals to lessen some of the prescriptive requirements in the bill, while also adding flexibility and accountability.

- It provides states with the option to restrict benefits to additional children born or conceived while the family is on welfare. A family cap should not be a federal requirement that would require state legislative approval to opt-out.
- It sets the administrative cap on child care funds at 5 percent. The 3 percent contained in the conference agreement is not realistic.
- It raises the hardship exemption from the five-year lifetime limit on federal cash benefits to 20 percent of the caseload.
- It adds a state plan requirement that the state set forth objective criteria for the delivery of benefits and for fair and equitable treatment with an opportunity for a recipient who has been adversely affected to be heard in a state administrative or appeal process.

CHILD WELFARE

In the area of child welfare, we believe that we have developed a proposal which protects children while allowing states the flexibility to focus greater effort on successful prevention efforts such as family preservation. Our proposal would replace Title VII in the H.R. 4 conference agreement.

- First, the Governors' policy would maintain the open-ended entitlement for foster care and adoption assistance maintenance, administration, and training as under current law.
- Second, the policy would create a Child Protection Block Grant, consolidating funding for the remaining child welfare, family preservation, and child abuse prevention and

treatment programs. As you know, these programs are not currently individual entitlements. States must maintain protections and standards under current law.

- Finally, states would have the option of taking all of their foster care and independent living funding as a capped entitlement (or block grant) and would be allowed to transfer any portion of these funds into the Child Protection Block Grant for activities such as early intervention, child abuse prevention, and family preservation. States must continue to maintain their effort at 100 percent based on state spending in the year prior to accepting the capped entitlement. Again, states must maintain protections and standards under current law.

SSI FOR CHILDREN

With respect to Supplemental Security Income (SSI) for children, the Governors propose to adopt the provisions in the Senate bill that eliminate the comparable severity test and the Individualized Functional Assessment (IFA) for determining eligibility for children. Only children who meet or equal the Medical Listings of Impairments will qualify for SSI. We do not support the two-tiered payment system that was contained in the H.R. 4 conference agreement. We would also set an effective date for current and new applicants of January 1, 1998.

FOOD STAMP PROGRAM

In the Food Stamp Program, our policy would reauthorize the program in its current uncapped entitlement form. We also propose to modify the income deductions as outlined in the Senate-passed welfare bill, which achieves savings through modifications to the standard deduction rather than capping the excess shelter deduction. Governors voiced concerns that the changes to the excess shelter deduction in the H.R. 4 conference agreement would disproportionately impact the very poorest and families with children.

CHILD NUTRITION

In the area of child nutrition, we propose changes to the School Nutrition Block Grant Demonstration that would be authorized in seven states. Within these demonstrations, our policy would maintain the current entitlement for children, and schools would continue to receive per-meal federal subsidies for all lunches and breakfasts under current eligibility criteria. States would, however, receive their *administrative* dollars as a block grant.

There are two final areas our policy addresses - territories and the Earned Income Tax Credit.

TERRITORIES

The Governors strongly encourage Congress to work with the Governors of Puerto Rico, Guam, and the other territories toward allocating equitable federal funding for their welfare programs.

EARNED INCOME TAX CREDIT

And finally, while the Earned Income Tax Credit (EITC) may be considered in the context of budget reconciliation rather than welfare reform, the Governors believe that the availability of the EITC to low-income families is critical to ensuring that a family is better off working than on welfare. The Governors' policy would limit the budget savings from revising the EITC to \$10 billion. We also believe a state option should be added to advance the EITC.

BENEFITS FOR ALIENS

The absence of recommendations on the restriction of benefits for aliens should not be interpreted as support for or opposition to the alien provisions of the H.R. 4 conference agreement. It is likely that you will be hearing directly from Governors that have concerns in this area.

MEDICAID

Mr. Chairman and members of the committee, we would now like to turn our attention to Medicaid policy which like the Welfare Reform policy was adopted unanimously on February 6. This is a most important time. Our charge as elected officials is difficult. Americans expect discipline in federal and state spending, and we have the responsibility to assure that the funds we spend are spent wisely and that they produce a cost-effective return on investment. In no area is such a need greater than in publicly funded health care.

BACKGROUND

For most of the last decade, health care expenditures in the United States have far exceeded overall growth in the U.S. economy. And while medical inflation is declining, public and privately funded health care costs continue to limit the long term economic growth of the nation. For states, the primary impact of health care costs on state budgets has been in the Medicaid program. Annual Medicaid growth over the last decade has been well in excess of 10 percent, and in half of those years annual growth approached 20 percent. Determining the causes of such unbridled growth is difficult. However, major contributing factors include: congressional expansions in the program, court decisions limiting the states in their ability to control costs, policy decisions by states maximizing federal financing of previously state-funded health care programs, and changing demographics.

Restricting the growth of Medicaid is no easy task. Medicaid is the primary source of health care for low income pregnant women and children, persons with disabilities, and the elderly. This year, states and the federal government combined will spend more than \$150 billion in this program providing care to more than 35 million people. The challenge for the nation, and Governors as the stewards of this program, is to redesign Medicaid so that health care costs are more effectively contained, those that truly need health care coverage continue to gain access to

that care while giving states the needed flexibility to maximize the use of these limited health care dollars to most effectively meet the needs of low income individuals.

THE NEW PROGRAM

Within the balanced budget debate, a number of alternatives to the existing Medicaid program have been proposed. The following outlines the NGA proposal. It blends the best aspects of the current program with congressional and administration alternatives toward achieving a streamlined and state-flexible health care system that guarantees health care to our most needy citizens. Since the proposal was unveiled on February 6th, we have had a myriad of questions concerning the details of the proposal. Some of those questions have been answered others remain unresolved. It is not our intent today, to put forth a completed proposal with all of the "I's" dotted and "T's" crossed. Rather, this is an outline and a working document that is meant to be refined through a process of public examination.

Program Goals. The NGA proposal is guided by four primary goals.

- The basic health care needs of the nation's most vulnerable populations must be guaranteed.
- The growth in health care expenditures must be brought under control.
- States must have maximum flexibility in the design and implementation of cost-effective systems of care.
- States must be protected from unanticipated program costs resulting from economic fluctuations in the business cycle, changing demographics and natural disasters.

Eligibility. Coverage remains guaranteed for

- Pregnant women to 133 percent of poverty.
- Children to age 6 to 133 percent of poverty.
- Children age 6 through 12 to 100 percent of poverty.

- The elderly who meet SSI income and resource standards.
- Persons with disabilities as defined by the state in their state plan. States will have a funds set-aside requirement equal to 90 percent of the percentage of total medical assistance funds paid in FY 1995 for persons with disabilities.
- Medicare cost sharing for Qualified Medicare Beneficiaries.
- Either:
 - Individuals or families who meet current AFDC income and resource standards (states with income standards higher than the national average may lower those standards to the national average); or
 - states can run a single eligibility system for individuals who are eligible for a new welfare program as defined by the state.

Consistent with the statute, adequacy of the state plan will be determined by the Secretary of HHS. The Secretary should have a time certain to act.

Coverage remains optional for:

- All other optional groups in the current Medicaid program.
- Other individuals or families as defined by the state but below 275 percent of poverty.

Benefits. The following benefits remain guaranteed for the guaranteed populations only.

Inpatient and outpatient hospital services, physician services, prenatal care, nursing facility services, home health care, family planning services and supplies, laboratory and x-ray services, pediatric and family nurse practitioner services, nurse midwife services, and Early and Periodic Screening, Diagnosis and Treatment Services. (The "E" in EPSDT is redefined so that a state need not cover all Medicaid optional services for children.)

At a minimum, all other benefits defined as optional under the current Medicaid program would remain optional and long term care options significantly broadened.

States have complete flexibility in defining amount, duration, and scope of services.

Private Right of Action. The following are the only rights of action for individuals or classes for eligibility and benefits. All of these features would be designed to prevent states from having to defend against suits on eligibility and benefits in federal court.

- Before taking action in the state courts, the individual must follow a state administrative appeals process.
- States must offer individuals or classes a private right of action in the state courts as a condition of participation in the program.
- Following action in the state courts, an individual or class could petition the U.S. Supreme Court.
- Independent of any state judicial remedy, the Secretary of HHS could bring action in the federal courts on behalf of individuals or classes but not for providers or health plans.

There should be no private right of action in federal court for providers or health plans.

Service Delivery. States must be able to use all available health care delivery systems for these populations without any special permission from the federal government. States must not have federally imposed limits on the number of beneficiaries who may be enrolled in any network.

Provider Standards and Reimbursements. States must have complete authority to set all health plan and provider reimbursement rates without interference from the federal government or threat of legal action of the provider or plan. The Boren amendment and other Boren-like statutory provisions must be repealed "One hundred percent reasonable cost reimbursement" must be phased out over a two year period for federally qualified health centers and rural health clinics. States must be able to set their own health plan and provider qualifications standards and be unburdened from any federal minimum qualification standards such as those currently set for obstetricians and pediatricians. For the purpose of the Qualified Medicare Beneficiaries program, the states may pay the Medicaid rate in lieu of the Medicare rate.

Nursing Home Reforms. States will abide by the OBRA '87 standards for nursing homes. States will have the flexibility to determine enforcement strategies for nursing home standards and will include them in their state plan.

Plan Administration. States must be unburdened from the heavy hand of oversight by the Health Care Financing Administration. The plan and plan amendment process must be streamlined to remove HCFA micromanagement of state programs. Oversight of state activities by the Secretary must be streamlined to assure that federal intervention occurs only when a state fails to comply substantially with federal statutes or its own plan. HCFA can only impose disallowances that are commensurate with the size of the violation.

This program should be written under a new title of the Social Security Act.

Provider Taxes and Donations. Current provider tax and donation restrictions in federal statutes would be repealed. Current and pending state disputes with HHS over provider taxes would be discontinued.

Financing. Each state will have a maximum federal allocation that provides the state with the financial capacity to cover Medicaid enrollees. The allocation is available only if the state puts up a matching percentage (methodology to be defined.) The allocation is the sum of four factors: base allocation, growth, special grants (special grants have no state matching requirement) and an insurance umbrella, described as follows:

1. **Base.** In determining base expenditures, a state may choose from the following - the 1993 expenditures, 1994 expenditures, or 1995 expenditures. Some states may require special provisions to correct for anomalies in their base year expenditures.
2. **Growth.** This is a formula that accounts for estimated changes in the state's caseload (both overall growth and case mix) and an inflation factor. The details of this formula are to be determined. This formula is calculated each year for the following year based on the best available data.

3. Special Grants. Special grant funds will be made available for certain states to cover illegal aliens and for certain states to assist Indian Health Service and related facilities in the provision of health care to Native Americans. States will have no matching requirement to gain access to these federal funds.
4. The Insurance Umbrella. This insurance umbrella is designed to ensure that states will get access to additional funds for certain populations if, because of unanticipated consequences, the growth factor fails to accurately estimate the growth in the population. Funds are guaranteed on a per-beneficiary basis for those described below who were not included in the estimates of the base and the growth. These funds are an entitlement to states and not subject to annual appropriations.

Populations and Benefits. Access to the insurance umbrella is available to cover the cost of care for both guaranteed and optional benefits. The umbrella covers all guaranteed populations and the optional portion of two groups—persons with disabilities and the elderly.

Access to the Insurance Umbrella. The insurance umbrella is available to a state only after the following conditions are met.

1. States must have used up other available base and growth funds that had not been used because the estimated population in the growth and base was greater than the actual population served.
 2. Appropriate provisions will be established to ensure that states do not have access to the umbrella funds unless there is a demonstrable need.
5. Matching Percentage. With the exception of the special grants, states must share in the cost of the program. A state's matching contribution in the program will not exceed 40 percent.
 6. Disproportionate Share Hospital Program. Current disproportionate share hospital spending will be included in the base. DSH funds must be spent on health care for low income people.

A state will not receive growth on DSH if these funds constitute more than 12 percent of total program expenditures.

Provisions for Territories. The National Governors' Association strongly encourages Congress to work with the Governors of Puerto Rico, Guam, and other territories towards allocating equitable federal funding for their medical assistance programs.

CONCLUSION

We believe that the proposals we have presented before you today are sound. We encourage you to give them most careful consideration as you continue your deliberations. Thank you Mr. Chairman and members of the committee for giving us the opportunity to appear before you today. We are happy to answer any questions.



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TESTIMONY

MEDICAID REFORM

BY

GOVERNOR LAWTON CHILES

STATE OF FLORIDA

before the

UNITED STATES SENATE

COMMITTEE ON FINANCE

on

February 22, 1996

Medicaid Reform
U.S. Senate Finance Committee
February 22, 1996

It has been almost a year since I last appeared before this Committee on the subject of Medicaid reform. Last year when I testified, I focused on what I felt were the obvious inequities of the block grant approach for high-growth states like Florida. I was concerned that the part of the program that I couldn't control was going to have a hard cap. That is, the people who move to my state, age in my state and need more and more services in my state, would not have been counted.

The federal government was going to give me some money on a stump, hope it was going to be enough and send me on my way. If they estimated my growth needs incorrectly that was my state's problem. If they overestimated another state's growth needs, that was their windfall.

Ironically, two of the governors here today also appeared before this Committee on that day. But we were on opposite sides of the issue. We come here today with our best attempt at resolving our differences.

Our structure is not perfect. It certainly cannot replace the 30 years of hard work which this Committee has put into the Medicaid program. It is not based on any proposal in the Congress. It doesn't assume MediGrant I or MediGrant II or any of the Per Capita Cap bills as its foundation. It does not repeal Title 19 or incorporate the legislative language of other proposals. It stands on its own: as an outline of what governors think the future of the Medicaid program should look like. It is at best an outline - but we think, it is nonetheless important. We know this outline can be improved - and, we hope to work with you in a bipartisan way to do just that.

Medicaid is much more than just an ideological concept for governors. This program monopolizes our attention, our planning, our rendering of services -- and, most importantly our state budgets. We all want to reform this program. We hope we have provided you with a blueprint to do the job right.

I'd like to focus today on the critical guarantees this proposal provides. First, it provides a guarantee of eligibility to the individual. In earlier proposals, set-asides to groups were used to try to ensure that individuals received coverage. The governors' proposal changes that. We maintain the strength of the current law for eligibility. If you are eligible for Medicaid today, with few exceptions, you will be eligible under this new program.

States will be required to serve:

- All Pregnant Women below 133% of poverty;
- All Children up to Age 6 under 133% of poverty;
- All Children 6-12 under 100% of poverty;

All AFDC recipients (through current AFDC or a new cash assistance program);
All People with Disabilities as defined by the state and approved by the Secretary of HHS;
All Elderly SSI recipients; and
All Poor Elderly Recipients on Medicare for the cost of their premiums, co-pays and deductibles.

In addition, the eligibility categories that are optional today would remain optional. But the fundamental principle that our most vulnerable populations should be individually guaranteed entry into the program is what helped bring our group together. It is this structure that is critical to any reformed Medicaid program. In the governors proposal, individuals are guaranteed coverage if they are in these federally defined classes -- as they are today under current law.

Today, when a pregnant woman at 125% of poverty walks into a Medicaid office she is guaranteed entry into the program. Earlier proposals would have had her eligibility left up to the state. Under the earlier proposals, if the state had spent enough on that class of people it had no obligation to serve her as an individual. The governors' proposal rejects that approach. That pregnant woman, indeed any pregnant woman under 133% of poverty, is automatically eligible for Medicaid.

Some of my colleagues will discuss the flexibility we are seeking to tailor our benefits package to specific populations. We think it is important to maintain a meaningful safety net on benefits. For all guaranteed groups under our proposal -- the current mandatory benefits package, with few exceptions, would continue to be mandatory. States would have some discretion beyond that mandatory package to tailor specific benefits to populations in need. We hope that will enable us to expand the safety net to the working poor who by and large today have no health coverage.

This flexibility we're asking for is nothing new to many members on this Committee. It is what drove many of you and some of my Republican colleagues at this table to support a block grant for Medicaid. But in our agreement, the governors wanted to make sure, that the flexibility they got was real.

None of us want the flexibility to slash the program. But under some of the earlier proposals that's what flexibility would have meant. Because of the magnitude of the cut, we would have been forced to use our flexibility to reduce our rolls. And because the federal government's participation was absolutely limited through an aggregate cap on federal spending, states would have been left with no federal partner.

This is where as governors we have taken a strong bipartisan stand -- our proposal does not have an aggregate cap. Our entire compromise is constructed around two fundamental principles -- flexibility to the states and a true federal/state partnership for financing.

These two principles must be linked. You cannot have true flexibility with a federal partner that can bail-out in the tough times. And, you can't achieve the savings you need without allowing states the flexibility to run this program more efficiently.

My colleagues will talk about our plan for financing this program. I want to emphasize this point on which we all agree. The umbrella fund in our proposal is uncapped; it is not subject to appropriation; it is an entitlement. When more people become eligible for the program than expected the umbrella responds automatically, helping to provide critical health services to the individual.

If we experience a recession in Florida and suddenly have an increase in the number of poor children eligible for Medicaid the federal partner will be there, automatically, sharing the burden with the state. If there is a natural disaster, the federal partner will be there, automatically. My state was devastated by Hurricane Andrew in 1992. Overnight we had an extra 12,000 people eligible for Medicaid in Dade County. Without a strong federal partner during those difficult times, we would have been on our own. Those families that needed care would have been in serious trouble.

Many see this as a protection for state budgets. I see it as protection for the individuals in this program. That structure cannot be changed. It is the core of our agreement. It is why this group is before you today. It is a true compromise.

Giving a state flexibility without adequate resources to cover the needy would force states to cut their rolls, slash services and undermine the overall health of their population. I know we all share a commitment to maintain this critical safety net. And as governors, we are ready to begin work on a true bipartisan approach to reform the Medicaid program.

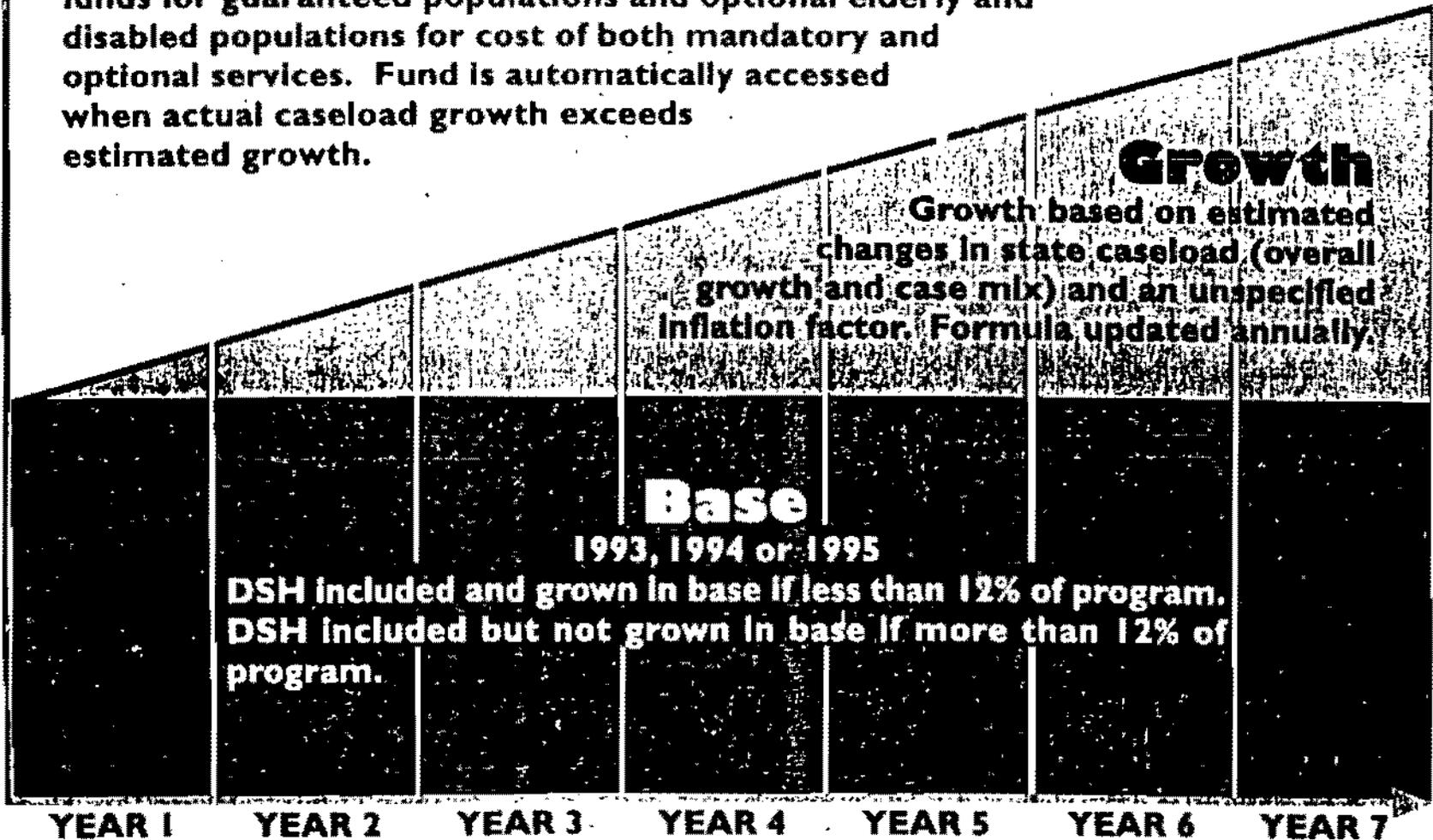
I know we all look forward to getting this job done right.

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FEDERAL FUNDS

Umbrella

Uncapped entitlement, not subject to appropriations. Provides funds for guaranteed populations and optional elderly and disabled populations for cost of both mandatory and optional services. Fund is automatically accessed when actual caseload growth exceeds estimated growth.



SENATE FINANCE MARKUP OF
MEDIGRANT, 1995

Summary of Senate Finance Committee Budget Mark Up Medicaid Amendments

Below is a summary of Medicaid amendments offered during the Senate mark up of S. 1357, the Balanced Budget Act of 1995. In some instances, Senators co-authored amendments; therefore, the amendments are listed underneath two Senators.

Chafee:

- Require a per capita cap. (Amendment withdrawn.)
- Require a minimum benefit package. (Amendment defeated.)
- Require a minimum level of Medicaid spending on mandatory populations (children, families). (Amendment accepted.)
- Require family planning coverage. (Amendment defeated.)
- Require pre-pregnancy coverage (limited family planning). (Amendment accepted.)
- Guarantee coverage of kids up to age 12, families below 100% of poverty level, and disabled. (Amendment accepted.)

Conrad:

- Prohibit spousal impoverishment due to nursing home costs. (Amendment accepted.)
- Require 1995 as baseline in new formula (Amendment defeated).

Baucus:

- Prohibit spousal impoverishment due to nursing home costs. (Amendment accepted.)

Graham:

- Require a per capita cap. (Amendment withdrawn.)
- Return to original Medicaid program if infant mortality or number of the uninsured increases. (Amendment defeated.)
- States include disproportionate share hospital (DSH) formula in state plan submitted to HCFA. (Amendment accepted.)
- Maintain restrictions on state provider taxes and donations (Amendment accepted.)

Mosely Braun:

- Return to original Medicaid program if infant mortality or the number of the uninsured increases. (Amendment defeated.)
- Requires HCFA study on disabled children and managed care (Amendment accepted.)
- Requires limited coverage for persons transitioning off AFDC. (Amendment defeated.)

Hatch:

- Sets aside 1% of Medicaid funds for FQHCs and RHCs. (Amendment accepted.)
- Create treatment goals for children with special health needs. (Amendment accepted.)
- States include disproportionate share hospital (DSH) formula in state plan submitted to HCFA. (Amendment accepted.)

Rockefeller:

- Requires a study of affect of Medicaid changes. (Amendment accepted.)
- Requires payment of "adequate" rates to Medicaid providers (Amendment defeated.)
- Guarantee coverage of kids up to age 12, families below 100% of poverty level, and disabled. (Amendment accepted.)

D'Amato:

- Increase federal Medicaid payments to 60% of program costs. (Amendment accepted.)
- Use Medicaid private plan enrollment when computing DSH. (Amendment accepted.)

Grassley:

- Medicaid is secondary payer to other federal health programs. (Amendment accepted.)

Pryor:

- Maintain federal nursing home standards. (Amendment defeated.)
- Maintain Medicaid drug rebate program contingent on study. (Amendment accepted.)

Breaux:

- Allow CDC to negotiate discounts prices for immunizations. (Amendment accepted.)