

THE WHITE HOUSE
WASHINGTON

Paul —

Coord. w/ Paster

to close loop.

CHR willing to make
calls if necessary

(pk)

Carol:

This is the

JUL 2

Hand List

PJW
(Paul Weinstein)

July 19, 1993

**Housing and Community Development Act of 1993
Highlights**

RECTD

1. FHA Multifamily Reforms

Loosen legislative restrictions on sale of properties
Make disposition process more flexible
Strengthen State property disposition demonstration
Create RTC demonstration program
Authorize civil money penalties against general partners and
certain managing agents of multifamily housing
Other technical amendments

2. Public Housing Rent Rules

18-month rent disallowance initiative
Reform public housing ceiling rents

3. Freeze Administration Fees**4. Merge severely distressed public housing programs**

Consolidate the "best" of HOPE VI and Section 24

5. Section 108 Loan Guarantees

Innovative use of UDAG recaptures
Make colonias eligible
Pooling of notes

6. HOME Amendments

Simplify HOME matching requirements
Simplify Program-wide income targeting for HOME rental
housing
Simplify resale provisions

7. Community Partnership Against Crime Program (COMPAC)

Extend definition of crime beyond drug-related
Create predictable stream of funding
Encourage comprehensive strategies and community involvement
Allow broad range of eligible activities
Link PHAs, tenants and community groups

8. Technical Corrections to 1990 and 1992 Acts

Apply public housing amendments to Indian housing
Correct errors in multifamily mortgage limits
Correct errors in FHA multifamily risk-sharing program

Subit Indian Housing

*checked in
O.H.*

file

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7/13/93 ACTION/CONCURRENCE/COMMENT DUE BY: Wed. July 14, 12 noon

PRESIDENTIAL TRANSMITTAL OF THE "COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993"

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	NUSSBAUM	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GEARAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	PASTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NEEL	<input type="checkbox"/>	<input type="checkbox"/>	RASCO	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
PANETTA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RUBIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SEGAL	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VARNEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAKE	<input type="checkbox"/>	<input type="checkbox"/>	WATKINS	<input type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
McGINTY	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			MYERS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
			CLERK	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS: Revised package for transmittal to Congress on Thurs. July 15. Please provide comments by 12:00 noon on Wed. July 14.

RESPONSE:

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702



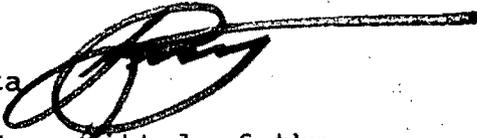
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

23 JUL 1 1993 9:46

THE DIRECTOR

June 30, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: Leon E. Panetta 

SUBJECT: Presidential Transmittal of the
"Community Development Banking and
Financial Institutions Act of 1993"

I am forwarding a legislative proposal -- entitled the "Community Development Banking and Financial Institutions Act of 1993" -- for your transmittal to the Congress. Consistent with your Budget, the proposal establishes a Community Development Banking and Financial Institutions Fund. The Fund will provide financial and technical assistance to community development financial institutions.

This package contains two originals and ten copies of: the Presidential Transmittal Message to the Congress; a statement of the Administration's principles with respect to the proposal; the legislative proposal; and a section-by-section analysis. We understand that the National Economic Council staff is preparing a fact sheet for issuance by the Press Secretary.

These materials were prepared by the Department of the Treasury and have been reviewed by this Office, the White House Counsel's Office, and the staff of the National Economic Council and the Domestic Policy Council. The materials were also reviewed by the Departments of Agriculture, Commerce, Housing and Urban Development, and Justice, the Small Business Administration, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the National Credit Union Administration, the Office of Personnel Management and the Council of Economic Advisers.

Attachments

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to submit to the Congress the "Community Development Banking and Financial Institutions Act of 1993." This legislative initiative will promote the creation of community development financial institutions that will empower individuals and communities and provide for greater economic opportunity. Also transmitted are a statement of the Administration's principles embodied in this proposal and a section-by-section analysis.

In too many urban and rural communities, there is a lack of capital and credit. Lending in distressed communities, particularly to small businesses, can be complicated. It may require special expertise and knowledge of the borrower and the community, credit products, subsidies, and secondary markets. Community development financial institutions--including community development banks like South Shore Bank in Chicago, community credit unions such as Self-Help in North Carolina, community development corporations, micro-enterprise loan funds, and revolving loan funds--have demonstrated that they can provide capital, credit, and development services in distressed areas and to targeted populations.

The bill proposes establishment of a Community Development Banking and Financial Institutions Fund that would support a program of investment in community development financial institutions. The Fund would provide financial and technical assistance to, and serve as a national information clearinghouse for, community development financial institutions.

This initiative reaffirms my commitment to helping communities help themselves. By ensuring greater access to capital and credit, we will tap the entrepreneurial energy of America's poorest communities and enable individuals and communities to become self-sufficient.

My Administration is also committed to enhancing the role of traditional financial institutions with respect to community reinvestment. As a complement to the community development financial institutions initiative, we will adopt regulatory changes to more effectively implement the Community Reinvestment Act of 1977. These changes will replace paperwork with performance-oriented standards and will include tougher enforcement measures for non-compliance.

In order to secure early enactment of legislation in this crucial area, I urge Congress to consider the Community Development Banking and Financial Institutions Act of 1993 as a discrete bill, separate from general issues of financial services reform and any other non-germane amendments.

Principles of Administration's Community Development Financial Institutions Proposal

Creation of Fund/Governance. A Fund will be created to provide assistance to community development financial institutions (CDFIs). A corporate board of directors of the Fund will establish policy and will include the Secretaries of HUD, Treasury, Commerce, Agriculture, and the Administrator of the Small Business Administration and individuals appointed by the President who collectively represent community groups and have expertise in community development lending and commercial banking. A CEO appointed by the board will manage the Fund.

Fund A Full Range of CDFIs. All types of existing and new CDFIs will be eligible for assistance, e.g., community development banks, community development credit unions, revolving loan funds, micro-loan funds, minority-owned banks, and community development corporations. No set aside of funds is allotted for any one type of CDFI.

Mission. To be eligible for assistance, a CDFI must have a primary mission of lending to and developing an underserved target area or population that is low income or disadvantaged. All CDFIs must present a strategic plan in their application which clearly states how they will meet the economic and community development needs of their targeted communities.

Require A Non-Federal Match. A minimum match for investment in insured depository CDFIs will be required. For investment in other CDFIs, a match will be required but the amount is left to the discretion of the Fund. Technical assistance to any CDFI from the Fund will not require a match.

Types of Assistance. The types of assistance provided by the Fund will include capital and technical and training assistance, with the specific allocations of the types of assistance left to the discretion of the Fund.

Community Representation. A criterion for receiving assistance from the Fund is the extent of community involvement in the CDFI.

Community Lending. A criterion for receiving assistance from the Fund is the extent of community financing and lending that will result from federal support.

Promotion of Self-Sustaining Institutions. A criterion for receiving assistance from the Fund is the likelihood of the institution becoming self-sustaining.

Limits on Assistance. Separate limits are placed on the amount of assistance that each insured CDFI or other type of CDFI may receive from the Fund.

Private Funds. The Fund will be authorized to incorporate private entities that can receive contributions and investments from the private sector to support CDFIs. All private funds will be entirely off the federal budget.

Safety and Soundness. All insured depository CDFIs are subject to the laws and regulations set forth by Congress and the banking regulators. No separate system of regulation or banking will be created.

Clearinghouse. The Fund will establish an information and service network in order to help CDFIs provide community and economic development assistance.

A BILL

To facilitate the establishment of community development financial institutions.

1 *Be it enacted by the Senate and House of Representatives of the United States*
2 *of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Community Development Banking and Financial
5 Institutions Act of 1993".

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) many of the Nation's urban and rural communities and Indian
9 reservations face critical social and economic problems arising in part from the
10 lack of economic growth, people living in poverty, and the lack of employment
11 and other opportunities;

12 (2) the restoration and maintenance of the economies of these communi-
13 ties will require coordinated development strategies, intensive supportive
14 services, and increased access to capital and credit for development activities,
15 including investment in businesses, housing, commercial real estate, human
16 development, and other activities that promote the long-term economic and
17 social viability of the community;

18 (3) in many urban and rural communities, low- and moderate-income
19 neighborhoods, and Indian reservations, there is a shortage of capital and
20 credit for business and affordable housing;

1 (4) access to capital and credit is essential to unleash the untapped
2 entrepreneurial energy of America's poorest communities and to empower
3 individuals and communities to become self-sufficient; and

4 (5) community development financial institutions have proven their
5 ability to identify and respond to community needs for capital, credit, and
6 development services in the absence of, or as a complement to, services
7 provided by other lenders.

8 (b) PURPOSE.—The purpose of this Act is to create a Community Development
9 Banking and Financial Institutions Fund that will support a program of investment in
10 and assistance to community development financial institutions. The Community
11 Development Banking and Financial Institutions Fund will provide financial and
12 technical assistance, including training, to community development financial
13 institutions, serve as a national information clearinghouse, and be an institutional
14 voice for community development. The community development financial institutions
15 that the Community Development Banking and Financial Institutions Fund supports
16 will provide capital, credit, and development services to targeted investment areas or
17 populations, and will promote economic revitalization and community development.

18 SEC. 3. DEFINITIONS.

19 (a) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal
20 banking agency" has the same meaning given such term in section 3(q) of the Federal
21 Deposit Insurance Act (12 U.S.C. 1813(q)).

22 (b) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term
23 "community development financial institution" means any bank, savings association,
24 depository institution holding company, credit union, micro-enterprise loan fund,
25 community development corporation, community development revolving loan fund,

1 minority-owned or other insured depository institution, or non-depository organiza-
2 tion that—

3 (1) has as its primary mission the promotion of community development
4 through the provision of capital, credit, or development services in its
5 investment areas or to targeted populations; and

6 (2) encourages, through representation on its governing board or
7 otherwise, the input of residents in the investment area or the targeted
8 populations.

9 A depository institution holding company may qualify as a community development
10 financial institution only if the holding company and its subsidiaries collectively
11 satisfy the requirements of paragraphs (1) and (2). No subsidiary of a depository
12 institution holding company may qualify as a community development financial
13 institution if the holding company and its subsidiaries collectively do not meet the
14 requirements of paragraphs (1) and (2). The term "community development financial
15 institution" does not include an agency or instrumentality of the United States or an
16 agency or instrumentality of any State or political subdivision thereof.

17 (c) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository
18 institution holding company" has the same meaning given such term in section 3(w)
19 of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)).

20 (d) DEVELOPMENT SERVICES.—The term "development services" means
21 activities conducted by a community development financial institution that promote
22 community development by developing, supporting, and strengthening the lending,
23 investment, and capacity-building activities undertaken by institutions, including, but
24 not limited to—

25 (1) business planning services;

1 (2) financial and credit counseling services;

2 (3) marketing and management assistance; and

3 (4) administrative activities associated with lending or investment.

4 (e) **INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The term
5 "insured community development financial institution" means any community
6 development financial institution that is an insured depository institution. The term
7 also includes an insured credit union which has been designated as low-income by the
8 National Credit Union Administration.

9 (f) **INSURED CREDIT UNION.**—The term "insured credit union" has the same
10 meaning given such term in section 101(7) of the Federal Credit Union Act (12
11 U.S.C. 1752(7)).

12 (g) **INSURED DEPOSITORY INSTITUTION.**—The term "insured depository
13 institution" has the same meaning given such term in section 3(c) of the Federal
14 Deposit Insurance Act (12 U.S.C. 1813(c)).

15 (h) **INVESTMENT AREA.**—The term "investment area" means an identifiable
16 community that -

17 (1) meets objective criteria of distress, including the number of low-
18 income families, the extent of poverty, the extent of unemployment, the extent
19 of unmet credit needs, the degree of availability of basic financial services, the
20 degree of limited access to capital and credit provided by existing financial
21 institutions, and other factors that the Fund determines to be appropriate; or

22 (2) is located in an empowerment zone or enterprise community
23 designated under section 1391 of the Internal Revenue Code of 1986.

24 (i) **QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The
25 term "qualified community development financial institution" means a community

1 development financial institution that meets the requirements of sections 5(b)(2)
2 through (8) of this Act.

3 (j) TARGETED POPULATION.—The term "targeted population" means an
4 identifiable group of low-income or disadvantaged persons that are underserved by
5 existing financial institutions.

6 **SEC. 4. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY**
7 **DEVELOPMENT BANKING.**

8 (a) IN GENERAL.—There is created and chartered a body corporate to be
9 known as the Community Development Banking and Financial Institutions Fund
10 (referred to in this Act as the "Fund") that shall have the powers and responsibilities
11 specified by this Act. The Fund shall have succession until dissolved. The charter
12 of the Fund may be revised, amended, or modified by Congress at any time. The
13 offices of the Fund shall be in Washington, D.C.

14 (b) BOARD OF DIRECTORS.—

15 (1) IN GENERAL.—The powers and management of the Fund shall be
16 vested in a Board of Directors (referred to in this Act as the "Board"), which
17 shall have nine members.

18 (2) MEMBERS.—The members of the Board shall consist of the
19 following:

20 (A) The Secretary of Agriculture.

21 (B) The Secretary of Commerce.

22 (C) The Secretary of Housing and Urban Development.

23 (D) The Secretary of the Treasury.

24 (E) The Administrator of the Small Business Administration.

25 (F) Four private citizens, appointed by the President with the

1 advice and consent of the Senate, that collectively—

2 (i) represent community groups whose constituencies
3 include low-income persons or residents of investment areas,

4 (ii) have expertise in the operations and activities of insured
5 depository institutions, and

6 (iii) have expertise in community development and lending;
7 provided that there should not be less than one member from each of the
8 three categories described in clauses (i) through (iii) of this subpara-
9 graph.

10 (3) CHAIRPERSON.—The President shall appoint from among the
11 members of the Board specified in paragraph (2)(F) a chairperson of the
12 Board, who shall serve at the pleasure of the President for a term of two years.

13 (4) VICE-CHAIRPERSON.—The President shall appoint from among the
14 members specified in paragraph (2) a vice-chairperson who will serve as
15 chairperson in the absence, disability, or recusal of the chairperson. The vice-
16 chairperson shall serve at the pleasure of the President for a term of two years.

17 (5) TERMS OF APPOINTED MEMBERS.—

18 (A) IN GENERAL.—Each member appointed pursuant to paragraph
19 (2)(F) shall serve at the pleasure of the President for a term of four
20 years, except as provided in paragraph (5)(C).

21 (B) VACANCIES.—Any member appointed to fill a vacancy
22 occurring prior to the expiration of the term for which the previous
23 member was appointed shall be appointed for the remainder of such
24 term. Appointed members may continue to serve following the
25 expiration of their terms until a successor is appointed and qualified.

1 (C) TERMS.—The terms of the initial appointed members shall be
2 for four years and shall begin on the date each member is appointed,
3 except that two of the members initially appointed pursuant to paragraph
4 (2)(F) shall be designated to serve at the pleasure of the President for
5 five years.

6 (6) ACTING OFFICIALS.—In the event of a vacancy or absence of the
7 individual in any of the offices described in paragraphs (2)(A) through (E), the
8 official acting in that office shall be a member of the Board.

9 (7) AUTHORITY TO DELEGATE.—Each member of the Board specified in
10 paragraphs (2)(A) through (E) may designate another official who has been
11 appointed by the President with the advice and consent of the Senate within the
12 same agency to serve as a member in his or her stead.

13 (8) COMPENSATION.—Members of the Board who are otherwise officers
14 or employees of the United States shall serve without additional compensation
15 for their duties as members, but shall be reimbursed by the Fund for travel,
16 per diem, and other necessary expenses incurred in the performance of their
17 duties, in accordance with sections 5702 and 5703 of title 5, United States
18 Code. The appointed members of the Board shall be entitled to receive
19 compensation at the daily equivalent of the rate for a position under Level IV
20 of the Executive Schedule under section 5315 of title 5, United States Code,
21 and shall be reimbursed by the Fund for travel, per diem, and other necessary
22 expenses incurred in the performance of their duties, in accordance with
23 sections 5702 and 5703 of title 5, United States Code.

24 (9) MEETINGS.—The Board shall hold meetings at least quarterly.
25 Special meetings of the Board may be called by the Chairperson or on the

1 written request of three members of the Board. A majority of the members of
2 the Board in office shall constitute a quorum.

3 (c) OFFICERS AND EMPLOYEES.—The Board shall appoint a Chief Executive
4 Officer who will be responsible for the management of the Fund and such other
5 duties deemed appropriate by the Board. The Board shall appoint a Chief Financial
6 Officer who shall oversee all of the financial management activities of the Fund. The
7 Board shall also appoint an Inspector General. The Board may appoint such other
8 officers and employees of the Fund as the Board determines to be necessary or
9 appropriate. The Chief Executive Officer, Chief Financial Officer, and up to 3 other
10 officers of the Fund may be appointed without regard to the provisions of title 5 of
11 the United States Code governing appointments in the Federal service and compensat-
12 ed without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the
13 United States Code, except that the rate of pay for the Chief Executive Officer shall
14 not exceed the rate for a position under Level II of the Executive Schedule under
15 section 5313 of title 5 of the United States Code and the rate of pay for the remaining
16 four officers shall not exceed the rate for a position under Level IV of the Executive
17 Schedule under section 5315 of title 5 of the United States Code.

18 (d) GENERAL POWERS.—In carrying out its powers and duties, the Fund—

19 (1) shall have all necessary and proper powers to carry out its authority
20 under this Act;

21 (2) may adopt, alter, and use a corporate seal, which shall be judicially
22 noticed;

23 (3) may sue and be sued in its corporate name and complain and defend
24 in any court of competent jurisdiction;

25 (4) may adopt, amend, and repeal bylaws, rules, and regulations

1 governing the manner in which its business may be conducted and shall have
2 power to make such rules and regulations as may be necessary or appropriate
3 to implement the provisions of this Act;

4 (5) may enter into and perform such agreements, contracts, and
5 transactions as may be deemed necessary or appropriate to the conduct of
6 activities authorized under this Act;

7 (6) may determine the character of and necessity for its expenditures and
8 the manner in which they shall be incurred, allowed, and paid;

9 (7) may utilize or employ the services of personnel of any agency or
10 instrumentality of the United States with the consent of the agency or
11 instrumentality concerned on a reimbursable or non-reimbursable basis; and

12 (8) may execute all instruments necessary or appropriate in the exercise
13 of any of its functions under this Act and may delegate to members of the
14 Board, to the Chief Executive Officer, or the officers of the Fund such of its
15 powers and responsibilities as it deems necessary or appropriate for the
16 administration of the Fund.

17 (e) WHOLLY-OWNED GOVERNMENT CORPORATION.—

18 (1) The Fund shall be a wholly-owned Government corporation in the
19 Executive branch and shall be treated in all respects as an agency of the United
20 States, except to the extent this Act provides otherwise.

21 (2) Section 9101(3) of title 31, United States Code (the Government
22 Corporation Control Act), is amended—

23 (A) by redesignating paragraphs (B) through (M) as paragraphs

24 (C) through (N), respectively; and

25 (B) by inserting after paragraph (A) the following:

1 "(B) the Community Development Banking and Financial Institutions
2 Fund."; and

3 (3) Section 9107(b) of title 31, United States Code (the Government
4 Corporation Control Act), shall not apply to deposits of the Fund made
5 pursuant to section 7 of this Act.

6 (f) **LIMITATION OF FUND AND FEDERAL LIABILITY.**—The liability of the Fund
7 and of the United States Government arising out of any investment in a community
8 development financial institution in accordance with this Act shall be limited to the
9 amount of the investment and the Fund shall be exempt from any assessments and
10 other liabilities that may be imposed on controlling or principal shareholders by any
11 Federal law or the law of any State, Territory, or the District of Columbia. A
12 community development financial institution that receives assistance pursuant to this
13 Act shall not be deemed to be an agency, department, or instrumentality of the
14 United States.

15 (g) **PROHIBITION ON ISSUANCE OF SECURITIES.**—The Fund may not issue stock,
16 bonds, debentures, notes, or other securities.

17 **SEC. 5. APPLICATIONS FOR ASSISTANCE.**

18 (a) **FORM AND PROCEDURES.**—An application for assistance under this Act
19 shall be submitted by an applicant in such form and in accordance with such
20 procedures as the Board shall establish. The Board shall publish regulations with
21 respect to application requirements and procedures not later than 210 days after
22 enactment of this Act.

23 (b) **MINIMUM REQUIREMENTS.**—The Board shall require that the application—

24 (1) demonstrate to the satisfaction of the Board that the applicant is, or
25 upon the receipt of a charter will be, a community development financial

1 institution as defined in section 3(a) of this Act;

2 (2) demonstrate that the applicant will serve—

3 (A) a targeted population; or

4 (B) an area which is an investment area;

5 (3) in the case of an applicant that has previously received assistance
6 under this Act, demonstrate that the applicant—

7 (A) has successfully carried out its responsibilities under this Act;

8 (B) has become or is about to become an entity that will not be
9 dependent upon assistance from the Fund for continued viability; and

10 (C) will expand its operations into a new investment area, offer
11 new services, or will increase the volume of its current business;

12 (4) in the case of a community development financial institution with
13 existing operations, demonstrate a record of success of serving investment
14 areas or targeted populations;

15 (5) include a detailed and comprehensive strategic plan for the
16 organization that contains—

17 (A) a business plan of at least five years that demonstrates the
18 applicant is properly managed and has the capacity to form and operate
19 a community development financial institution that is, or will become,
20 an entity that will not be dependent upon assistance from the Fund for
21 continued viability;

22 (B) a statement that the applicant has, or will have, in its charter
23 or other governing documents a primary commitment to community
24 development, or other evidence of a prior history and a continuing
25 affirmation of a primary commitment of community development;

1 (C) an analysis of the needs of the investment area or targeted
2 populations and a strategy for how the applicant will attempt to meet
3 those needs;

4 (D) a plan to coordinate use of assistance from the Fund with
5 existing Federal, government-sponsored enterprise, and State and local
6 assistance programs, and private sector financial services;

7 (E) a statement that the proposed activities of the applicant are
8 consistent with existing economic, community and housing development
9 plans adopted by or applicable to the investment area;

10 (F) a description of how the applicant will affiliate, network, or
11 otherwise coordinate with a full range of community organizations and
12 financial institutions which provide, or will provide, capital, credit, or
13 secondary markets in order to assure that banking, economic develop-
14 ment, investment, affordable housing, and other related services will be
15 available within the investment area or to targeted populations; and

16 (G) such other information as the Board deems appropriate for
17 inclusion in the strategic plan;

18 (6) demonstrate that the applicant will carry on its activities consistent
19 with the purposes of this Act within the investment area or with respect to a
20 targeted population;

21 (7) include a detailed and specific statement of applicant's plans and
22 likely sources of funds to match the amount of assistance from the Fund with
23 funds from private sources in accordance with the requirements of section 7(d)
24 of this Act; and

25 (8) include such other information as the Board may require.

1 (c) **PRE-APPLICATION OUTREACH PROGRAM.**—The Fund shall provide for an
2 outreach program to identify and provide information to potential applicants and to
3 increase the capacity of potential applicants to meet the application and other
4 requirements of this Act.

5 **SEC. 6. SELECTION OF INSTITUTIONS.**

6 (a) **SELECTION CRITERIA.**—The Board shall, in its discretion, select applica-
7 tions that meet the requirements of section 5 of this Act and award assistance from
8 the Fund in accordance with section 7 of this Act. In selecting applications, the
9 Board shall consider applications based on, but not limited to—

10 (1) the likelihood of success of the applicant in forming and operating
11 a community development financial institution;

12 (2) the range and comprehensiveness of the capital, credit, and
13 development services to be provided by the applicant;

14 (3) the extent of the need, as measured by objective criteria of distress,
15 within the investment areas or targeted populations for the types of activities
16 proposed by the applicant;

17 (4) the likelihood that the proposed activities will benefit a significant
18 portion of the investment areas or targeted populations or, in the case of a
19 community development financial institution with existing operations, evidence
20 of a record of success in serving investment areas or targeted populations;

21 (5) the extent to which the applicant will concentrate its activities on
22 serving low and very low-income families;

23 (6) the evidence of the extent of a broad cross-section of support from
24 the investment areas or targeted populations;

25 (7) the experience and background of the proposed management team;

1 (8) the amount of legally enforceable commitments available at the time
2 of application to meet or exceed the matching requirements under section 7(d)
3 of this Act and the strength of the plan for raising the balance of the match;

4 (9) in the case of applicants that have previously received assistance
5 pursuant to this Act, the extent to which they have met or exceeded their
6 performance goals;

7 (10) the extent to which the proposed activities will expand the employ-
8 ment base within the investment areas or the targeted populations;

9 (11) the extent to which the applicant is, or will be, community-owned
10 or community-governed;

11 (12) whether the applicant is, or will become, an insured community
12 development financial institution;

13 (13) whether the applicant is, or will be located, in an empowerment
14 zone or enterprise community designated under section 1391 of the Internal
15 Revenue Code of 1986;

16 (14) in the case of an institution that is not an insured community
17 development financial institution, the extent to which the institution has or will
18 have the ability to increase its resources through affiliation with a secondary
19 market, insured depository institution, or other financial intermediary in order
20 to multiply the amount of capital or credit available for community develop-
21 ment;

22 (15) in the case of an insured depository institution or insured credit
23 union applicant, whether the institution—

24 (A) has or will have a substantial affiliation with an entity or
25 network of entities that are community development financial institu-

1 tions; and

2 (B) has a comprehensive plan for providing meaningful financial
3 assistance to such an entity or network of entities; and

4 (16) other factors deemed appropriate by the Board.

5 (b) GEOGRAPHIC DIVERSITY.—In addition to the above, in making its
6 selections, the Board shall seek to fund a geographically diverse group of applicants,
7 which shall include applicants from nonmetropolitan and rural areas.

8 (c) PUBLICATION REQUIREMENT.—The Board shall publish regulations with
9 respect to its selection criteria not later than 210 days after the date of enactment of
10 this Act.

11 **SEC. 7. ASSISTANCE PROVIDED BY THE FUND.**

12 (a) PURPOSE OF ASSISTANCE.—

13 (1) The Fund shall work to promote an environment hospitable to
14 business formation, economic growth, community development, and affordable
15 housing in distressed communities. The Fund shall coordinate its activities
16 with existing Federal and other community and economic development
17 programs.

18 (2) Assistance may be provided to an existing qualified community
19 development financial institution to expand its activities to serve investment
20 areas or targeted populations not currently served by another qualified
21 community development financial institution receiving assistance under this
22 section or to expand the volume of its activities consistent with the purposes
23 of this Act, or to form a new entity to undertake activities consistent with the
24 purposes of this Act, or to assist an existing entity to modify its structure or
25 activities in order to undertake activities consistent with the purposes of this

1 Act.

2 (b) TYPES OF ASSISTANCE.—

3 (1) IN GENERAL.—The Fund may provide financial assistance to
4 qualified community development financial institutions through equity
5 investments, loans, deposits, membership shares, and grants. The Fund may
6 also provide technical assistance, including training, and grants for technical
7 assistance to qualified community development financial institutions. The
8 allocation of awards of assistance between insured and uninsured community
9 development financial institutions shall be in the discretion of the Board,
10 provided that due consideration shall be given to the allocation of funds to
11 insured community development financial institutions.

12 (2) FINANCIAL ASSISTANCE.—The Fund shall structure financial assis-
13 tance to a qualified community development financial institution in such a
14 manner that it does not own more than 50 percent of the equity of such
15 institution and does not control the operations of such institution. The Fund
16 will not be deemed to control such institution for the purposes of applicable
17 laws. With respect to equity investments, the Fund shall hold only transfer-
18 able, nonvoting investments. Such equity investments may provide for
19 convertibility to voting stock upon transfer by the Fund.

20 (3) DEPOSITS.—Notwithstanding any other provision of law, deposits
21 made pursuant to this section in qualified insured community development
22 financial institutions shall not be subject to any requirement for collateral or
23 security.

24 (4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be
25 incurred only to the extent that appropriations of budget authority to cover

1 their costs, as defined in section 502 of the Congressional Budget Act of 1974,
2 are made in advance.

3 (c) PURPOSE OF FINANCIAL ASSISTANCE.—Financial assistance made available
4 under this Act may be used by assisted institutions to develop or support—

5 (1) commercial facilities that enhance revitalization, community stability,
6 or job creation and retention efforts;

7 (2) business creation and expansion efforts that—

8 (A) create or retain jobs for low-income people;

9 (B) enhance the availability of products and services to low-
10 income people; or

11 (C) create or retain businesses owned by low-income people or
12 residents of a targeted area;

13 (3) community facilities that provide benefits to low-income people or
14 enhance community stability;

15 (4) the provision of basic financial services to low-income people or
16 residents of a targeted area;

17 (5) the provision of development services;

18 (6) home ownership opportunities that are affordable to low-income
19 households;

20 (7) rental housing that is principally affordable to low-income house-
21 holds; and

22 (8) other activities deemed appropriate by the Fund.

23 (d) AMOUNT OF ASSISTANCE.—The Fund may provide up to \$5,000,000 of
24 assistance per application to any one qualified insured community development
25 financial institution and up to \$2,000,000 per application to any other qualified

1 community development financial institution. The Fund shall have the authority to
2 set minimum amounts of assistance per institution.

3 (e) MATCHING REQUIREMENTS.—

4 (1) Assistance provided to qualified insured community development
5 financial institutions, other than deposits or membership shares of \$100,000 or
6 less, technical assistance, or grants for technical assistance, shall be matched
7 by no less than one dollar of equity, deposits or membership shares for each
8 dollar provided by the Fund. The Fund shall require a match for all other
9 assistance, the amount and form of which shall be in the discretion of the
10 Fund; provided that, the Fund shall in no event require assistance provided in
11 the form of deposits or membership shares of \$100,000 or less, technical
12 assistance, or grants for technical assistance to be matched. The Fund shall
13 provide no assistance except technical assistance or grants for technical
14 assistance until a qualified community development financial institution has
15 secured legally enforceable commitments for the entire match required.
16 Assistance may be provided in one lump sum, or over a period of time, as
17 determined by the Fund.

18 (2) Assistance shall be matched with funds from sources other than the
19 Federal Government.

20 (f) TERMS AND CONDITIONS.—

21 (1) IN GENERAL.—The Fund shall provide assistance authorized under
22 this Act in such form and subject to such restrictions as are necessary to ensure
23 that to the maximum extent practicable—

24 (A) all assistance granted is used by the qualified community
25 development financial institution in a manner consistent with the

1 purposes of this Act;

2 (B) qualified community development financial institutions
3 receiving assistance that are not otherwise regulated by the Federal
4 government or by a State government are financially and managerially
5 sound;

6 (C) assistance results in a net increase, both nationally and in the
7 local communities in which assistance is provided, in capital, credit, and
8 development services; and

9 (D) assistance is provided in a manner that encourages affiliations
10 and partnerships between insured depository institutions, secondary
11 markets or other sources of credit or leverage and local organizations
12 dedicated to community development.

13 (2) CONSULTATION WITH BANKING REGULATORS.—Prior to providing
14 assistance to a qualified insured community development financial institution,
15 the Board should consult with the appropriate Federal banking agency or, in
16 the case of an insured credit union, the National Credit Union Administration.

17 (3) ASSISTANCE AGREEMENT.—

18 (A) The Board shall impose restrictions on the use of assistance
19 through a stock purchase agreement, share purchase agreement, or
20 through a contract entered into in consideration for the provision of
21 assistance.

22 (B) Such agreement or contract shall require institutions assisted
23 under this Act to comply with performance goals. The performance
24 goals shall be negotiated between the Board and each qualified commu-
25 nity development financial institution receiving assistance based upon the

1 strategic plan submitted pursuant to section 5(b)(5) of this Act. The
2 performance goals may be renegotiated jointly as necessary or appropri-
3 ate, subject to subparagraph (C) of this section. Activity levels for
4 insured community development financial institutions should be
5 determined by the Board in consultation with the appropriate Federal
6 banking agency or, in the case of an insured credit union, with the
7 National Credit Union Administration.

8 (C) The agreement or contract shall specify sanctions available to
9 the Board, in its discretion, in the event of noncompliance with the
10 purposes of this Act or the terms of the agreement. The sanctions may
11 include revocation of approval of the application, terminating or
12 reducing future assistance, requiring repayment of assistance, and
13 requiring changes to the performance goals imposed pursuant to
14 subparagraph (B) or to the strategic plan submitted pursuant to section
15 5(b)(5) of this Act. In the case of an insured community development
16 financial institution, the Board shall consult with the appropriate Federal
17 banking agency or, in the case of an insured credit union, the National
18 Credit Union Administration, before imposing sanctions pursuant to this
19 paragraph.

20 (4) REVIEW.—At least annually, the Board shall review the performance
21 of each assisted qualified community development financial institution in
22 carrying out its strategic plan and performance goals.

23 (5) REPORTING.—The Board shall require each qualified community
24 development financial institution receiving assistance to submit an annual
25 report to the Fund on its activities, its financial condition, its success in

1 meeting performance goals, and its compliance with other requirements of this
2 Act.

3 (g) **AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.**—The Board shall
4 have the authority at any time to sell its investments and loans and may, in its
5 discretion, retain the power to enforce limitations on assistance entered into in
6 accordance with the requirements of this Act.

7 (h) **NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.**—Nothing in this
8 Act shall affect any authority of the appropriate Federal banking agency or, in the
9 case of an insured credit union, the National Credit Union Administration, to
10 supervise and regulate an insured community development financial institution.

11 **SEC. 8. ENCOURAGEMENT OF PRIVATE ENTITIES.**

12 The Board may cause to be incorporated, or encourage the incorporation of,
13 private non-profit and for-profit entities that will complement the activities of the
14 Fund in carrying out the purposes of this Act. The purposes of any such entities
15 shall be limited to investing in and assisting community development financial
16 institutions in a manner similar to the activities of the Fund under this Act. Any such
17 entities shall be managed exclusively by private individuals who are selected in
18 accordance with the laws of the jurisdiction of incorporation.

19 **SEC. 9. CLEARINGHOUSE FUNCTION.**

20 The Fund shall establish and maintain an information clearinghouse in
21 coordination with the Departments of Agriculture, Commerce, and Housing and
22 Urban Development, the Small Business Administration, other Federal agencies, and
23 community development financial institutions—

24 (1) to cause to be collected, compiled, and analyzed information
25 pertinent to community development financial institutions that will assist in

1 creating, developing, expanding, and preserving these institutions; and

2 (2) to cause to be established a service center for comprehensive
3 information on financial, technical, and management assistance, case studies
4 of the activities of community development financial institutions, regulations,
5 and other information that may promote the purposes of this Act.

6 **SEC. 10. RECORDKEEPING, REPORTS, AND AUDITS.**

7 (a) RECORDKEEPING.—

8 (1) A qualified community development financial institution receiving
9 assistance from the Fund shall keep such records as may be reasonably
10 necessary to disclose the disposition of any assistance under this Act and to
11 ensure compliance with the requirements of this Act.

12 (2) The Fund shall have access, for the purpose of determining
13 compliance with this Act, to any books, documents, papers, and records of a
14 qualified community development financial institution receiving assistance from
15 the Fund that are pertinent to assistance received under this Act.

16 (b) REPORTS.—

17 (1) ANNUAL REPORT.—The Fund shall conduct an annual evaluation of
18 the activities carried out pursuant to this Act and shall submit a report of its
19 findings to the President within 120 days of the end of each fiscal year of the
20 Fund. The report shall include financial statements audited in accordance with
21 subsection (c).

22 (2) INSTITUTIONAL VOICE FOR COMMUNITY DEVELOPMENT.—

23 (A) ONGOING STUDY.—The Fund shall conduct, or cause to be
24 conducted, an ongoing study to identify and evaluate the most effective
25 and financially sound policies and practices for encouraging investment

1 in distressed communities, including small business and commercial
2 lending, business formation and expansion, community and economic
3 development, commercial real estate and multi-family housing, and
4 home mortgages. In addition, the Fund may study, or cause to be
5 studied, related matters, such as identification of sources of and access
6 to capital and loans for community investment; development of
7 secondary markets for economic and community development, small
8 business and commercial loans, and home mortgage loans and invest-
9 ments; and methods to involve all segments of the financial services
10 industry in community development.

11 (B) CONSULTATION.—In the conduct of the study, the Fund shall
12 consult, or cause consultation with, the Office of the Comptroller of the
13 Currency, the Federal Deposit Insurance Corporation, the Board of
14 Governors of the Federal Reserve System, the Federal Housing Finance
15 Board, the Farm Credit Administration, the Office of Thrift Supervision,
16 the National Credit Union Administration, community reinvestment, civil
17 rights, consumer and financial organizations, and such representatives
18 of agencies or other persons as the Fund may determine.

19 (C) REPORTS.—Within 270 days after the date of enactment of this
20 Act, the Fund shall report to the President its initial findings and
21 recommendations regarding the matters set forth in subparagraph (A).
22 Thereafter, the Fund shall report its findings and recommendations to
23 the President with the annual report required by paragraph (b)(1).

24 (3) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Six years
25 following the date of enactment of this Act, the Fund, in accordance with the

1 procedures described in paragraphs (2)(A) and (B), shall conduct a study
2 evaluating the structure, governance, and performance of the Fund. The study
3 shall be submitted to the President. Such study shall include an evaluation of
4 the overall performance of the Fund in meeting the purposes of this Act and
5 any recommendations of the Fund for restructuring the Board, altering
6 procedures under which the Fund is governed, the future role of the Fund in
7 addressing community development, and the ability of the Fund to become a
8 private, self-sustaining entity capable of fulfilling the purposes of this Act.

9 (c) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be
10 audited in accordance with section 9105 of title 31, United States Code, except that
11 audits required by section 9105(a) of that title shall be performed annually.

12 **SEC. 11. INVESTMENT OF RECEIPTS AND PROCEEDS.**

13 Any dividends on equity investments and proceeds from the disposition of
14 investments, deposits, or membership shares that are received by the Fund as a result
15 of assistance provided pursuant to section 7 of this Act shall be deposited and
16 accredited to an account of the Fund established to carry out the authorized purposes
17 of this Act. Upon request of the Chief Executive Officer, the Secretary of the
18 Treasury shall invest amounts deposited in such account in public debt securities with
19 maturities suitable to the needs of the Fund, as determined by the Chief Executive
20 Officer, and bearing interest at rates determined by the Secretary of the Treasury,
21 taking into consideration current market yields on outstanding marketable obligations
22 of the United States of comparable maturities. Amounts deposited into the account
23 and interest earned on such amounts pursuant to this section shall be available to the
24 Fund until expended.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) **IN GENERAL.**—There are authorized to be appropriated to the Fund, to
3 remain available until expended, \$60,000,000 for fiscal year 1994, \$104,000,000 for
4 fiscal year 1995, \$107,000,000 for fiscal year 1996, and \$111,000,000 for fiscal year
5 1997, or such greater sums as may be appropriated, to carry out the purposes of the
6 Act.

7 (b) **ADMINISTRATIVE EXPENSES.**—The Fund may set aside up to \$10,000,000
8 each fiscal year to pay administrative costs and expenses.

9 **SEC. 13. CONFORMING AMENDMENT.**

10 Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. app. 3 §
11 8E(a)(2)) is amended by inserting "the Community Development Banking and
12 Financial Institutions Fund," immediately following "the Commodity Futures Trading
13 Commission,".

**COMMUNITY DEVELOPMENT BANKING AND FINANCIAL
INSTITUTIONS ACT OF 1993**

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act may be cited as the "Community Development Banking and Financial Institutions Act of 1993".

Section 2. Findings and Purpose

Many of the Nation's urban areas, rural areas and Indian reservations face critical social and economic problems. The restoration and maintenance of the economies of these communities will require coordinated strategies to promote long-term economic and social viability. In many urban and rural communities, low- and moderate-income neighborhoods, and on Indian reservations, there is a shortage of capital and credit for business and affordable housing. Access to capital and credit is essential to enable individuals and communities to become self-sufficient. Community development financial institutions, such as micro-enterprise loan funds, community development credit unions, community development corporations and community development banks have proven their ability to identify and respond to community needs for capital, credit and development services in the absence of, or as a complement to, services provided by other lenders.

The purpose of the Act is to create a Community Development Banking and Financial Institutions Fund that will support a program of investment in and assistance to community development financial institutions.

Section 3. Definitions

The Act contains definitions of terms, including a definition of "community development financial institution." A community development financial institution includes any bank, savings association, depository institution holding company, credit union, micro-enterprise loan fund, community development corporation, community development revolving loan fund and any minority-owned or other depository institution that (i) has as its primary mission the provision of capital, credit or development services in investment areas or to populations that are low-income or disadvantaged and underserved by existing

financial institutions, and (ii) encourages, through representation on its governing board or otherwise, the input of residents in the investment area or the targeted population. The term "investment area" means an identifiable community that meets criteria of distress as determined by the Fund, or is designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986.

Section 4. Establishment of National Fund for Community Development Banking

This section provides for the establishment of a body corporate known as the Community Development Banking and Financial Institutions Fund (the "Fund"). The Fund will be managed by a nine-member Board of Directors (the "Board"). The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of the Treasury and the Administrator of the Small Business Administration, or their designees will serve as members of the Board. (A designee must be an official from the same agency who has been appointed by the President with the advice and consent of the Senate.) The remaining four members will be private citizens appointed by the President and confirmed by the Senate. These individuals must collectively represent community groups, have expertise in the activities and operations of insured depository institutions, and have expertise in community development and lending. The appointed members will serve for a term of four years, except that the initial terms of two of the appointed members will be five years. The President will appoint a chairperson from among the appointed members and a vice-chairperson from among the members of the Board. Both the chairperson and the vice-chairperson will serve in those offices for terms of two years.

The members of the Board that are otherwise employees of the United States will receive no additional compensation for service on the Board, but will be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties. The appointed members will be compensated at a rate equivalent to the daily rate for a position under Level IV of the Executive Schedule. The appointed members may also be reimbursed for travel, per diem, and other necessary expenses.

The Board is required to hold meetings at least quarterly. Other meetings of the Board may be held on the call of the chairperson or at the written request of at least three Board members. A majority of the members of the Board in office will constitute a quorum.

The Board must appoint a Chief Executive Officer, a Chief Financial Officer and an Inspector General. The Chief Executive

Officer will be responsible for the management of the Fund and such other duties as the Board deems appropriate. The Board may fix the compensation of the Chief Executive Officer, the Chief Financial Officer, and up to three other officers of the Fund without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, except that the compensation for the Chief Executive Officer may not exceed the rate of pay for a position under Level II of the Executive Schedule and the rate of pay for the four remaining officers may not exceed the rate for a position under Level IV of the Executive Schedule. All other employees of the Fund will be compensated pursuant to the provisions of title 5.

Section 4 enumerates the general powers of the Fund, which include the power to sue and be sued in its corporate name and to enter into and perform agreements. The Fund is also authorized to utilize the services of personnel of any other agency on a reimbursable or non-reimbursable basis with that agency's consent. The Fund may not issue stock, bonds, debentures, notes or other securities. The liability of the Fund and of the United States with respect to an investment in a community development financial institution is limited to the amount of the investment.

The Fund will be a wholly-owned Government corporation and will be treated as an agency of the United States unless provided otherwise by the Act.

Section 5. Applications for Assistance

This section requires the Board to publish regulations regarding procedures and forms for applications for assistance from the Fund not later than 210 days after enactment of the Act. In order to be eligible as a threshold matter to apply for assistance from the Fund, an applicant must: (i) demonstrate to the satisfaction of the Board that the applicant is, or will be, a community development financial institution; (ii) demonstrate that the applicant will serve what is defined in the Act as a targeted population or an investment area; (iii) demonstrate, if the applicant previously has received assistance from the Fund, that the applicant has been successful in carrying out the purposes of the Act, that the applicant is, or is about to become, an entity that is not dependent upon assistance from the Fund for continued viability, and that the applicant will expand its services; (iv) demonstrate, if the applicant is a community development financial institution with existing operations, a record of success in serving investment areas or targeted populations; (v) include with its application a comprehensive strategic plan which contains required elements that will demonstrate the applicant's commitment to serving community development needs and to becoming a community development financial institution that will not be dependent upon assistance

from the Fund for continued viability; (vi) include with its application a statement of the applicant's likely source of private funds to meet any matching requirement under section 7(d) of the Act; and (vii) include with its application any other information required by the Board.

This section also requires the Fund to conduct a pre-application outreach program that will identify and provide information to potential applicants and will increase the capacity of potential applicants to meet the application and other requirements of the Act.

Section 6. Selection of Institutions

This section requires the Board, in its discretion, to select applications submitted under section 5 and to award assistance from the Fund. In making its selections, the Board is required to evaluate applications based on selection criteria. The selection criteria are designed to ensure that applicants with the most promise for fulfilling the purposes of the Act are awarded assistance. In addition to the selection criteria, the Board is permitted to consider any other factors it deems appropriate when evaluating applications.

The Board is required to publish regulations regarding the selection criteria not later than 210 days after enactment of the Act.

Section 7. Assistance Provided by the Fund

This section permits the Fund to provide financial assistance to qualified community development financial institutions in the form of equity investments, loans, deposits, membership shares and grants. The Fund may also provide technical assistance, including training, and grants for technical assistance to qualified community development financial institutions. The allocation of awards between insured and uninsured community development financial institutions is in the discretion of the Board, provided that due consideration is given to the allocation of funds for the establishment of insured community development financial institutions.

This section also requires equity investments held by the Fund to be in the form of transferable, nonvoting investments. Such equity investments may provide for convertibility to voting stock upon disposition of the interest by the Fund. The Fund is directed to structure its investments in such a manner that it will not own more than 50 percent of the equity of an institution and will not control the operations of the institution. The Fund will be deemed not to control any institution receiving financial assistance for purposes of applicable laws.

Assisted institutions may use funds provided under the Act to develop or support commercial and community facilities that enhance revitalization and job creation, business creation and expansion efforts, the provision of basic financial services to low-income persons, the provision of development services, homeownership opportunities that are affordable to low-income persons, rental housing that is affordable to low-income persons and other activities that are deemed appropriate by the Fund.

The Fund may provide up to \$5 million of assistance per application to any one qualified insured community development financial institution and up to \$2 million per application to any other qualified community development financial institution.

This section requires all qualified insured community development financial institutions receiving assistance to match the assistance with at least one dollar from private sources for each dollar provided by the Fund, except that an insured community development financial institution will not be required to match technical assistance provided by the Fund or grants for technical assistance. In addition, applicants for assistance in the form of deposits or membership shares in an amount of \$100,000 or less will not be subject to any matching requirement. A match will be required for all types of assistance provided to other community development financial institutions, and the amount and form of the match will be in the discretion of the Board. The Board, however, may not require that technical assistance or grants for technical assistance to community development financial institutions be matched. The Fund may not provide any assistance except technical assistance until legally enforceable commitments for the entire required match have been secured.

The Fund is required to provide assistance in such forms and subject to such restrictions that will assure, among other things, that assistance from the Fund is used in a manner consistent with the purposes of the Act and that institutions not federally regulated are financially and managerially sound. Before providing assistance to an insured community development financial institution, the Board is directed to consult with the appropriate Federal banking agency. The Board is required to impose negotiated performance goals on qualified community development financial institutions receiving assistance based on the strategic plan submitted in the institution's application. Institutions receiving assistance are required to submit an annual report to the Fund and the Fund is required to review the performance of the institutions. The assistance agreement is required to include specific sanctions available to the Board in the event that an assisted institution does not comply with the purposes of the Act or the terms of the agreement. These sanctions may include revocation of approval of the application, termination or reduction of future assistance, changing

performance goals or elements of the institution's strategic plan, and requiring repayment of assistance.

This section also permits the Board to sell its investments at any time and permits the Board to retain the power to continue to enforce any limitations placed on the assistance.

This section also clarifies that the Act does not affect the authority of any Federal banking regulator to supervise and regulate an insured community development financial institution.

Section 8. Encouragement of Private Entities

The Board may cause to be incorporated, or encourage incorporation of, private non-profit and for-profit corporations that will complement the activities of the Fund in carrying out the purposes of the Act. The purposes of the private entities will be limited to investing in and assisting community development financial institutions.

Section 9. Clearinghouse Function

The Fund is required by this section to establish and maintain an information clearinghouse that will assist in creating, developing and expanding community development financial institutions.

Section 10. Recordkeeping, Reports, and Audits

This section requires qualified community development financial institutions receiving assistance to maintain all records necessary for ensuring compliance with the Act. The Fund will have access to all books and records of such institutions for the purposes of determining compliance with the Act.

The Fund is required to submit a report annually to the President evaluating the activities of the Fund. The report is to be submitted not later than 120 days after the end of the fiscal year of the Fund. In addition, the Board is required to conduct, or cause to be conducted, an ongoing study of the most effective and financially sound policies for community development. In the conduct of the ongoing study, the Board is required to consult, or cause consultation, with the Federal banking regulators and other agencies, as well as community reinvestment, civil rights, consumer and financial organizations. An initial report on the ongoing study must be submitted to the President within 270 days of the date of enactment of the Act.

This section also requires the Board to conduct an

additional study separate from the annual report and the ongoing study six years after enactment of the Act. This study will evaluate the structure, governance and performance of the Fund and will contain the Board's recommendations for changes in the operations of the Fund.

The Fund will be audited annually in accordance with the provisions of the Government Corporation Control Act.

Section 11. Investment of Receipts and Proceeds

This section provides that dividends on equity investments and proceeds from the disposition of investments, deposits, or membership shares will be deposited in an account established to carry out the authorized purposes of the Act. Upon request of the Chief Executive Officer of the Fund, the funds in the account will be invested in public debt securities that bear interest at a rate determined by the Secretary of the Treasury. The account will be available for use by the Fund in carrying out the purposes of the Act until the funds are expended.

Section 12. Authorization of Appropriations

This section authorizes appropriations to the Fund, to remain available until expended, \$60 million for fiscal year 1994, \$104 million for fiscal year 1995, \$107 million for fiscal year 1996, and \$111 million for fiscal year 1997, or such greater sums as may be appropriated, to carry out the purposes of the Act.

The Fund is permitted to set aside up to \$10 million per year for administrative costs and expenses.

Section 13. Conforming Amendments

This section adds the Fund to the list of entities subject to the Inspector General Act of 1978.

Abortion file

Kate Michelman
President

orig: CHR

XC: Hillary } Both
Salton } Hand-
del'd.

P. 6/23

June 22, 1993

Carol Rasco
White House
West Wing, 2nd Floor
1600 Pennsylvania Avenue, NW
Washington, DC

Dear Carol,

Attached is the paper I spoke about earlier today. I hope that Mrs. Clinton gets a chance to review it.

Thank you very much.

Warmly,

Kate

Should Taxpayers Fund Abortions for Poor Women?

By Irving B. Harris and Nancy F. Schulte

Separately, the issues of abortion and taxes are controversial; together they are incendiary. As a result, much heat but little light gets generated in the public discussion of Medicaid funded abortions. Recent events, however, make it impossible to leave the debate smoldering on the back burner. Debate on health care reform will include arguments on whether to include abortion services as part of a basic insurance package. This means that change is likely, either for women whose private insurance policies usually do cover abortions or for indigent women who rely on the Medicaid program, which seldom pays for abortions.

Our current two-tiered system of abortion services -- available to women with insurance or private resources, but largely unavailable to women needing publicly subsidized care -- is no accident. The Clinton Administration's decision to request an end to the 16-year-old ban on Federal financing of abortions for poor women under its Medicaid program prompted strong reaction from Illinois Representative Henry Hyde, for whom the amendment that instituted the first legislative check on the federal government's Medicaid coverage for abortions is named. Admitting that the ban only partially achieves his real goal, the prohibition of all abortions, he said in a recent interview: "I would do whatever I could to save the unborn of the rich if I could. We weren't able ever to do that, but we could save the unborn of the poor." (Chicago Tribune, 1993).

In all but 12 states (NARAL, 1992), the unavailability of any public funds for most abortions leaves pregnant women who cannot afford to pay for an abortion no alternative but to bear children they might not otherwise choose to have. These are women whose pregnancies were not intended, not wanted, and sometimes even coerced. For women with the least resources, "choice" is often just an empty promise. As U.S. Supreme Court Justice Harry A. Blackmun said in a 1977 dissenting opinion:

The Court concedes the existence of a constitutional right (to abortion) but denies the realization and enjoyment of that right on the ground that existence and realization are separate and distinct. For the individual woman concerned, indigent and financially helpless...the result is punitive and tragic. Implicit in the Court's holding is the condescension that she may go elsewhere for her abortion. I find that disingenuous and alarming, almost reminiscent of "Let them eat cake." (Beal v. Doe, 1977).

The emotionally charged issue of financing for abortions may be framed narrowly in monetary terms. Many citizens oppose public funding because they equate such use of tax dollars with tacit approval for abortions. Representative Hyde has said that he hopes to retain the Hyde Amendment by appealing to Congressional colleagues "who are very concerned about the fiscal dimension of requiring tax dollars to pay for abortions" (Chicago Tribune, 1993).

But the medical cost of abortion is only one of many economic and social costs that should be considered in the abortion funding debate. There are other dimensions that raise equally troubling questions: Does a government's denial of access to abortion implicitly promise government services for mother and child? Is that promise kept? Because most abortion policies--and any implied promises of service--are made by state governments, we must look to the experiences of states in order to understand the impact of their decisions.

This article will take a close look at the 1988 decision made by the citizens of the state of Michigan to terminate public funding for abortions except to save the life of the mother. It will raise questions about the consequences of that decision made, in large part, to save taxpayers' money. And it will document the brief experience of Cook County Hospital, the only public facility in Chicago that offers abortions at little or no cost, since the hospital resumed performing abortions in September, 1992 after a 12-year hiatus.

These particular experiences, however, are best understood in the context of child and family development issues. When abortion is denied, the unwanted pregnancy leaves a lasting legacy for the mother and child.

Access to abortion and the well-being of children and families

As child and family advocates, supporters of a range of programs designed to improve the physical, emotional and financial well-being of children and families, we see an urgent need for primary prevention of unintended and unwanted pregnancies. We believe in encouraging sexual abstention, especially for adolescents, but recognize that this by itself will not significantly reduce unwanted births, with 54 percent of all high school students having had sexual intercourse (Centers for Disease Control, January, 1992). Therefore we also encourage providing safe, affordable, reliable, accessible birth control to anyone who wants it. But when contraceptives are incorrectly used or fail--as they did for some seven million women in 1988--(National Center for Health Statistics, 1988) we believe in providing access to safe and affordable abortion to any woman who chooses to terminate an unplanned, unwanted pregnancy.

We believe that society must listen to the pregnant woman who does not want to have the baby and make it possible for her to end the pregnancy, whatever her financial circumstances. Women choose to have abortions for multiple reasons (Torres & Forrest, 1988): More than two-thirds point to financial difficulties; 30 percent say they are too immature or too young to have a child; and 51 percent have problems with a relationship or want to avoid single parenthood. In fact, unmarried women accounted for 79 percent of all abortions performed in the United States in 1990 (Centers for Disease Control, December, 1992). Our belief in the need for access to abortion is based in large part on our concern for children born unwanted. Their unwantedness is more likely to lead to lifelong hardships, as documented by studies analyzing the effects of denied abortions on the woman and the child. In his recent review of these studies for the American Journal of Psychiatry, Dr. Paul K.B. Dagg concludes:

Relatively few of the children are put up for adoption, and the majority born of unwanted pregnancies are raised by their biological mother. A significant minority--about 30%--of the women examined in the few long-term studies continue to report negative feeling toward their

child and difficulty adjusting. Finally, the most disturbing part of the whole issue is the evidence of significant negative effect on the child...subsequently raised in the situation that the parents had tried so desperately to avoid. (Dagg, 1991, p. 584).

These negative effects on the child are based on several well-designed prospective studies done in Scandinavia and Eastern Europe in the 1960's and 1970's. In his evaluation of the Scandinavia research, Dr. Dagg states:

In a classic study that continues to have relevance today, Forssman and Thuwe (Forssman, Thuwe, 1966) compared, up to age 21 years, 120 children born of unwanted pregnancies with control subjects matched by date of birth. They found that the study group had a more insecure childhood, more psychiatric care, more childhood delinquency, and more early marriages and were more often young mothers; all of these findings were statistically significant. Even after socioeconomic class was controlled, fewer of the study subjects have more than secondary education and fewer were without defects of any kind, when all these problems were grouped together. (Dagg, p. 583).

The difficulties confronting children born unwanted are further confirmed by research in Prague, Czechoslovakia (David, Dytrych, et al., 1988). Calling this "the most ambitious study to date" Dr. Dagg summarizes the results of the study which compared a group of 220 children born in Prague in 1961-63 to women who were twice denied abortion for the same pregnancy with a control group matched for socioeconomic class, sex, age, birth order, number of siblings, and parental marital status:

Early findings in 1970 found that the study subjects were less likely to be breast fed, had more acute medical illness, were more likely to be reported as difficult when they were preschoolers, were more likely to be rejected by friends and teachers, had poorer school performance, and were less adaptive to frustration; boys were more likely to be affected. At ages 14-16, 216 of the original 220 were still being studied. School performance in the study group continued to deteriorate, and various indicator scales showed this group had more negative relationships with their mothers. Current studies of the children in their early 20s show an ongoing propensity for social problems that remains markedly prevalent in this group. The study subjects had more job dissatisfaction and fewer friends and reported dissatisfaction with life (all significant findings) and less education, more criminality, and more registration by the authorities for drug and alcohol problems. (Dagg, p. 583).

In the United States, babies born to women who wanted to end their pregnancies but could not afford to do so, face challenges that may be even greater than those confronted by the children followed in the Scandinavia and Czechoslovakia samples. They are likely to be exposed to the interacting risks and consequences of poor health, poverty, drug use, sexual victimization, adolescent pregnancy, child abuse and neglect, and out-of-home placement.

We are ardent supporters of comprehensive programs and early intervention approaches designed to assist families with young children to overcome multiple obstacles to their healthy development. We also believe in primary prevention approaches. Abortion is never a first choice for preventing unwanted childbearing, but it should not be an option that is denied, for financial reasons, to a

woman who is trying, through her reproductive choices, to assume personal responsibility for her own and her family's future.

Federal and state abortion funding policy: 1977-1993

"Personal responsibility" is a popular phrase but unpopular public policy when it comes to legislation enabling women to afford abortions. The Federal government's restrictions on public funding for abortions, commonly known as the Hyde Amendment, have gone through various modifications further complicated by different court rulings. The original Congressional restrictions, passed in 1976 as amendments to the annual appropriations bills for the Departments of Labor and Health Education and Welfare, only allowed Medicaid to pay for abortions when the life of the pregnant woman was threatened. These restrictions went into effect on August 4, 1977. In 1977 and 1978 Congress extended coverage of abortions to rape and incest victims and women whose pregnancies would result in severe and long-lasting physical health damage, though the last condition was removed in 1979. (Trussell, Menken, Lindheim, Vaughan, 1980). But since June 5, 1981 payments for abortions have once again been limited to cases in which the mother's life is endangered. (Henshaw and Wallisch, 1984). The number of federally funded abortions dropped from 294,600 in fiscal 1977, before enforcement of the Hyde Amendment to 165 in fiscal 1990.

Thus under the Medicaid program, where the federal government and states jointly provide medical care for the indigent, the states have been left to subsidize abortion services to low-income women. State funds paid for 162,418 abortions in 1990 (Gold & Daley, 1991). But most states, 30 including Michigan, have followed the federal government's lead and only pay for abortions to protect the mother's life. Eight states fund abortions under certain circumstances such as rape and incest, and the remaining 12 states pay for most abortions for poor women covered by Medicaid (NARAL, 1992).

Michigan: The decision to ban public funding for abortions

The legislators of Michigan were persistent in their efforts to ban publicly funded abortions. Before Public Act 59 of 1987 stopped all public funding for abortions except to save the life of the mother, the state legislature had passed similar funding prohibitions 17 times but had been unable to override vetoes of Governors James Milliken and William Blanchard. Finally, in response to a citizen initiative sponsored by Michigan Right to Life, the legislature once again passed a ban on public funding for abortions. Bills passed under Michigan's voter initiative process are not subject to gubernatorial veto (Donovan, 1989). Public Act 59 of 1987 went into effect on December 12, 1988.

The People's Campaign for Choice, a coalition of Michigan prochoice groups, mounted one last challenge to Public Law 59 -- a referendum to restore abortion funding. This proposal was defeated in November, 1988. The key issue for voters seemed to be money. Writing in Family Planning Perspectives (1989), Patricia Donovan observed:

The opponents of abortion funding in Michigan...assiduously avoided the issue of morality of abortion. They skillfully tapped voters' fears of higher taxes and resentment over perceived welfare abuses and subtly implied that taxpayers were being asked to pay for the consequences of promiscuous behavior on the part of poor women. A Michigan ad

emphasized that the state paid \$6 million a year for abortions and that welfare costs have not gone up in states that have eliminated abortion funding. (Page 222).

On June 9, 1992 the Michigan Supreme Court upheld the state's political decision to stop all public funding for abortions except to save the life of the mother. The Court's 5-2 ruling stated: "The election to subsidize childbirth does not impermissibly influence the procreative decisions of indigent women. Nor does it coerce a woman into forfeiting her right to choose an abortion." (Doe v. Department of Social Services, 1992). The facts in the case suggest otherwise. The plaintiff was a poor 15-year-old who became pregnant as a result of rape and even though both she and her mother wanted an abortion, Michigan's Medicaid program would only pay for the teenager's childbirth expenses, not for the termination of a pregnancy that was itself coerced. Unless money was raised to pay for this young woman's abortion, a baby who was conceived in rape and carried unwillingly is now one of Michigan's youngest citizens.

The experiences of the indigent, pregnant adolescent in Doe v. Department of Social Services are not unique to Michigan. In an Illinois survey of 445 teen mothers who participated in 15 Parents Too Soon Programs funded by The Ounce of Prevention Fund, 61 percent reported being victims of unwanted sexual encounters, one-third of whom were younger than 12 at the time of their forced experience. (Ounce of Prevention Fund). These findings were subsequently confirmed in a study from the state of Washington that found two-thirds of a sample of 535 young women who became pregnant as adolescents had been sexually abused, including 44 percent who had been raped. Furthermore, compared with pregnant adolescents who had not been abused, the victims of abuse were more likely to have used drugs and alcohol and more likely to have become abusive mothers (Boyer, Fine, 1992).

Michigan's refusal to fund abortions for poor women is punitive and unfair, particularly toward those who are victims of rape or incest or whose pregnancies may complicate existing medical conditions. In perhaps the cruelest irony in the Medicaid program, while all states pay for amniocentesis and most newer prenatal diagnostic procedures (Weiner & Bernhardt, 1990), Michigan, along with 34 other states, does not fund abortions after the diagnosis of an anomalous fetus (NARAL, 1992). Thirteen percent of abortion patients decide to abort because the fetus has a possible health problem (Torres, 1988), but poor women are only entitled to know they are carrying a defective baby and most do not get financial support if they choose to abort. After the funding ban in Michigan the number of babies reported as born with congenital anomalies has skyrocketed. Much of this increase can be explained by simplified reporting procedures begun in 1989, but because there have also been more low birthweight babies born each year who are at greatest risk of having birth defects (Milli, Edmonds et al., November, 1991), the actual number of babies with congenital anomalies in all likelihood has also risen.

The 1990 Michigan Department of Public Health report links the increased number of chronically sick and handicapped babies it serves to the Medicaid abortion ban (MDPH, Rising Health Care Costs, 1990). Many are substance-exposed babies who spend time in expensive neonatal intensive care units.

The monetary consequences of Michigan's decision

Any voter who believed the 1988 ad campaign and thought that Michigan was going to save money by not providing abortions to poor women made an incorrect calculation. In 1989, the first year after the ban on publicly funded abortions took effect, the number of abortions in Michigan did decline by 10,300, from 45,438 in 1988 to 35,138 in 1989 (Michigan Department of Public Health, 1987-1990). If one assumes that without the ban, all 10,300 women would have had publicly funded abortions, each at an average cost of \$300, then the state saved \$3,090,000 in direct costs that year.

But the more significant question, which seldom gets asked, is what did the state **spend** as a result of its ban on publicly funded abortions? In 1989, Michigan's safety net needed to stretch even further to hold many more babies. In that year, the first year of the abortion funding ban, Michigan had the largest single-year gain in the number of live births since 1956, 8,529 more births. And in Detroit, which has the highest percentage of children living in poverty of any large U.S. city (Children's Defense Fund, 1992), births rose 15 percent, five times the national increase.

The state's ban on publicly funded abortions coincided with nationally mandated efforts to provide prenatal and maternity care to more pregnant women through expanded Medicaid coverage. In 1988 there were 39,898 Medicaid-assisted births in Michigan compared to an estimated 64,290 Medicaid-assisted births in 1991 (Michigan Department of Social Services, Medical Services Administration). It is important to recognize that of the Medicaid-funded births in 1990, more than 60 percent resulted from unintended pregnancies (MDPH PRAMS, 1990).

When poor women carry unwanted pregnancies to term, the public does not simply pay for routine prenatal and delivery expenses. In December 1990, the Michigan Department of Public Health issued a report entitled "Rising Health Care Costs for Children with Special Needs: A Budget Out of Control? Or a System Out of Balance?" The report states: "The Medicaid ban on abortion is contributing to a significant rise in births to young, poor women -- women most likely to have babies with less of a chance for survival and to increasing numbers of surviving medically fragile infants." (MDPH, Rising Health Care Costs, 1990, pp. 4-5).

Low birthweight is the chief culprit in infant death and disability. A Centers for Disease Control and Prevention study shows that babies unwanted at conception are more likely to weigh precariously little at birth, probably reflecting risky maternal behavior during pregnancy (Pamuk & Mosher, 1988). Most vulnerable and costly are very low birthweight babies weighing less than 1,500 grams (3 lb. 5 oz.). Almost half of these babies die before their first birthday.

While it is simple to quantify the \$3 million "saved" by Michigan in the first year of the funding ban, it is much harder to estimate the money Michigan taxpayers will have "lost" in a single year through Medicaid-assisted maternity care, Aid to Families with Dependent Children, food stamps; through Medicaid payments for low birthweight or otherwise medically fragile infants; or through foster care for babies, unwanted before birth and abandoned or abused after birth. These costs don't magically stop after the first year but persist and may even increase over time.

The long-term costs associated with the funding ban are probably staggeringly high. Consider the impact on teenagers. After the first two years of the funding ban, there was an estimated 52 percent increase in births to teenagers whose pregnancies were unintended (MDPH PRAMS, 1990). So if, for example, we assume that the 2,171 additional births to teenagers in 1989 were to Medicaid-

eligible adolescents who otherwise would have chosen abortion, the eventual cost to taxpayers could be as much as \$100 million. Each year American taxpayers spend more than \$21 billion--including Aid to Families with Dependent Children, food stamps, and Medicaid benefits--assisting families that start with a birth to a teenage mother. A family that receives public assistance after a teen birth costs the public an average of nearly \$50,000 over 20 years (Center for Population Options, 1991).

Another example is the increase in very low birthweight babies from 2,018 in 1988 to 2,256 in 1989. Assuming again that these 238 additional very low birthweight babies born in 1989 were born to Medicaid-eligible women denied abortions, and with the excess medical cost of one of these babies in the first year alone being \$52,000 (U.S. GAO, April, 1992), their excess medical costs in 1989 total \$12,376,000.

Sixteen thousand substance-exposed infants are born in Michigan each year (MDPH, Michigan Task Force, 1992). The expenditures for inpatient hospital care for newborns with perinatal chronic respiratory disorder, the most common reason for hospitalizing crack-exposed babies, have zoomed in Michigan since fiscal 1988 from \$840,000 to an estimated \$18.1 million in 1992. (MDPH, Rising Health Care Costs, 1990). According to a GAO report, the social welfare cost for one of these seriously impaired children through age 18 could reach \$750,000 (U.S. GAO, 1990). If 100 seriously impaired children among the 16,000 substance-exposed babies were born to indigent mothers who would have had abortions, their births alone could ultimately cost the public \$75 million.

Finally, being born unwanted is associated with significant--if not easily quantifiable--costs that continue throughout children's lives. As the longitudinal studies from Scandinavia and Czechoslovakia indicate, children born to women denied abortions are more likely to require special services such as remedial education, counseling, drug treatment and even incarceration. The next two sections, one on the consequences for infants in the child welfare system and the other on the special case of drug-exposed babies, suggest equally grim prospects for Michigan children who are born unwanted.

Consequences for infants and families

Michigan is not Czechoslovakia, and Detroit is not Prague. We will never be able to identify and follow the developmental effects of denied abortion on a cohort of children who were born unwanted. While unwanted pregnancies do not necessarily produce unwanted children, recent reports from Michigan state agencies in the years immediately following the ban on publicly funded abortions raise troubling questions about the experiences that may await Michigan infants whose mothers did not want to carry their pregnancies to term:

- o In Wayne County, which includes Detroit, the postneonatal mortality rate, an important measure of the environmental risks facing infants between 28 days and one year of age, rose from 3.9 deaths per 1,000 live births in 1988 to 5.3 deaths per 1,000 live births in 1989. One hundred thirty-eight infants between the ages of one month and one year died in Wayne County in 1988; 205 infants in this age group died in 1989 (MDPH Statistics, 1987-90).

- o The Michigan Department of Social Services reports a 38 percent increase in confirmed cases of abuse or neglect involving victims under age one during the period 1988-1991 (MDSS, personal communication, 1992).
- o Infants comprise the fastest growing group in Michigan's foster care system. The number of Michigan infants placed out-of-home increased from 760 in fiscal 1981 to 1,234 in fiscal 1990. (Schwartz, Ortega & Fishman, 1992). In Wayne County, infants account for 30 percent of the children placed in substitute care for the first time in fiscal 1990, compared to 19 percent in fiscal 1985. (Abbey, Vestivich, Schwartz, August, 1991).
- o The University of Michigan's Center for the Study of Youth Policy (Siefert, Schwartz & Ortega, 1992) found that postneonatal death rates among infants in foster care placement in Wayne County rose from 6.6 per 1,000 placements in 1980-82 to 11.4 deaths per 1,000 placements in 1987-1989, more than double the postneonatal mortality rates for all Wayne County infants.

The authors of the University of Michigan study, the first to look at infant mortality among children in foster care, conclude, "The commonly held assumption that the child welfare system provides care and protection for children has created an illusion of security." Even before the funding ban resulted in more babies being born unwanted, infants entrusted to Michigan's foster care system were much less likely to find long-term stability than older children. More than half of infants placed between 1981 and 1987 had no record of returning home or to a relative in the first four years following initial placement. And, between 1981 and 1987 the percentage of infants having multiple placements increased from 55 percent to 73 percent (Schwartz, Ortega & Fishman, 1992). Thus, the state's implicit promise to care for the additional babies born to poor women denied abortions is not likely to be kept. Babies born unwanted cannot rely on government services for even basic protection from physical harm, let alone the continuity and nurturance of "good enough" care.

Drug-exposed infants: A special and complex case

As one thinks about public responsibility toward children and families at highest risk, the situation of infants exposed prenatally to drugs presents special and extraordinary challenges. The Michigan Task Force on Drug-Exposed Infants (1992) estimates that 16,000 infants are born in Michigan each year to women who used harmful substances during pregnancy. In fiscal 1991, only 1,200 pregnant women were admitted into publicly-funded substance abuse treatment programs.

Almost immediately after the abortion funding ban went into effect on December 12, 1988, during the period between November, 1988 and September, 1989, a survey was conducted at Hutzel Hospital in Detroit, an institution which serves a high-risk, mostly low-income population. The survey revealed that 44 percent of infants delivered at the hospital had been exposed prenatally to drugs (Ostrea, Lizardo, & Tanafranca, 1992). The clinical manager of Hutzel's neonatal intensive care unit observed that many of the women who used drugs in pregnancy would have had abortions had they been able to. She also reported that some drug-addicted women purposely use crack in failed attempts to terminate their pregnancies (Chicago Tribune, 1989).

A growing number of drug-exposed newborns become "boarder babies." Abandoned by parents whose own drug or alcohol problems make them unable or unwilling to care for their newborns, these infants remain in hospitals because they have no place else to go. In 1992 the Child Welfare League of America, surveying 72 public and private hospitals in 12 cities, found they were spending \$34 million per year caring for 7,200 babies who were healthy enough to be discharged but had no homes. Eighty-five percent of these infants had been exposed to drugs or alcohol before birth. All of the boarder babies in the Hurley Medical Center in Flint, Michigan (the American city with the fourth highest percentage of children living in poverty) had been prenatally exposed to drugs.

Official state response to the desperate situation of substance-using pregnant women is tragically insensitive. In 1991, in the executive order establishing the Michigan Task Force on Drug-Exposed Infants, Governor Engler said:

...if the problem of drug-exposed infants is not dealt with effectively, the costs to society will be staggering because many drug-exposed infants require expensive, high technology medical care in neonatal intensive care units, are placed in foster care at a high cost to the State, and will later need special education services.

In 1992, the Task Force made its report, acknowledging that:

many women do not learn they are pregnant until well into the first trimester, the time when the developing fetus is most vulnerable to drug-related impairment. Even if women discontinue alcohol and other drug use upon learning they are pregnant, fetal damage may already have occurred. (p. 39).

The Task Force also noted that many substance-using women are victims of physical and sexual abuse or incest, which may, obviously, result in pregnancy. Despite this awareness, the Task Force recommended:

Reproductive health services should be made a Basic Health Service (teaching abstinence, family planning methods, pre- and post-conceptual counseling). Abortion counseling is not included (emphasis added). (p. 71).

Cook County, Illinois: Reversal of Funding Ban

The recent experience in Cook County Illinois, which includes the city of Chicago, provides compelling evidence that there is substantial unmet need for abortion services among low-income women.

In September, 1992, Cook County Hospital began performing abortions after a 12-year hiatus. The hospital is now the only public facility in Chicago that offers abortions at low or no cost. In the first six months after September, the hospital received 45,000 calls, about 2,000 calls a week. The hospital, however, with its current facilities and personnel is able to perform at most only 30 abortions a week (Jones, March, 1993, personal communication). Some women have been directed to two private clinics that provide subsidized abortion services. But every week hundreds of other poor women must forgo abortions unless they can find the money to pay for them.

Lessons learned from Michigan

When poor women--especially if they are young, unmarried and have serious health problems themselves--want to avoid an unwanted pregnancy and are denied access to abortion services, there are costly consequences for them, their children and society. The resentment of Michigan taxpayers over paying for abortions for poor women has resulted in a punitive and expensive policy. The money "saved" in direct costs is trivial compared to the enormous sums being spent each year on medical and social services for babies born unwanted.

While it is difficult to quantify, the authors believe that over time, the additional public costs for caring for the unwanted babies born in Michigan in 1989 could amount to \$300 million, 100 times the direct savings realized by the abortion funding ban. Ironically these huge expenditures do not create an effective safety net for babies at birth or as they grow up. Thus, Michigan's implicit promise to provide safe and adequate care for children born unwanted is unkept.

This issue, however, is about more than financial obligations; it is about giving women the opportunity to assume personal responsibility for what is perhaps the most important decision they will ever make. It is also about fairness to all women regardless of income. And, as the debate about including abortions services in any national health care package unfolds, the concerns of poor women are now becoming the concerns of all women.

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ADDED THOUGHTS

Why does a discussion about abortion raise the blood pressure of so many people? For some, it's religion. Some religions hold that abortion is murder of an infant. Abortion, even of a defective fetus or in a pregnancy caused by rape, they believe is banned by God.

But there are many individuals who do not base their thinking on religion, but feel just as strongly that abortion cannot be tolerated. Their attitudes sometimes are based on the mother's or father's resentment about their daughter's "wildness." And then, if the daughter becomes pregnant, they vigorously oppose abortion. One mother said of her disobedient daughter, "It serves her right." "It" was the daughter's insistence on her right to engage in sex - which she refused to believe was subject to the mother's or father's control. "It serves her right" expressed the hope that the daughter would be punished for her disobedience by having to raise the child as the punishment for her sin. Occasionally a parent, father or mother, will throw the pregnant daughter out of the house, sometimes physically.

Such parents believe "Only married people have the right to have sex." People who engage in sex outside of marriage should be punished by disease or pain or being forced for a lifetime to have to care for the child they did not plan or want. They cannot be permitted to flaunt the parent's (or society's) rule against extramarital sex.

Voters can also be persuaded to adopt a punitive action. For instance, when the question was asked as it was in Michigan in 1988, "Should taxpayers pay for an abortion with Medicaid funds?" the majority voted that taxpayers should not be forced to pay for the abortion.

The Supreme Court of the State of Michigan, by a vote of 5 to 2, decided in 1991 that the statute cutting off Medicaid funding for abortion was valid. In their decision, they held that the state had the right to withhold payment for abortion in the case of a 15 year old girl who had been raped. The girl and her mother both claimed that they were covered by Medicaid. The Supreme Court, however, made it clear in their decision to deny her Medicaid funding for abortion, that the State of Michigan was liable for providing prenatal care, paying medical bills and also the cost of the hospitalization for the 15 year old girl when she would go to the hospital.

Interestingly, when individuals are told before they express an opinion on Medicaid funding of abortion that the cost of the hospitalization and medical care will exceed the cost of abortion by a factor of 7 to 1 (in other words, it will cost approximately \$2,100 compared to the abortion's cost of \$300), 70% of the people polled said in that case they would vote that the taxpayers should pay the cost of the abortion.

Clearly, the economics of the problem in the 1988 referendum in Michigan were not well understood by the voters.

A stark example of the outcome of such lack of understanding is demonstrated, perhaps, by the recent right-to-life legislative successes, particularly related to requiring parental approval before abortions for minors. The Centers for Disease Control have shown in recent years a significant drop in the percentage of abortions for women 19 years old and younger. In 1976, they accounted for 32.1% of all abortions. By 1990, that figure had dropped to 22.3%.

Couple this with the fact that the Centers for Disease Control also report that 79% of all abortions are obtained by single women, and this probably accounts in part for the alarming increase in births to single women from 447,900 (14.2% of all births) in 1975 to 1,165,000 (28% of all births) in 1990.

In addition, the following chart seems to indicate that Medicaid funding of abortion over a five year period decreases births to single teenagers. Note particularly the 1990 percentage which averages 6.7% for the Medicaid-funding states and 9.7% for the non-Medicaid-funding states - an impressive difference.

Percent of all Births that are to Single Teens,
Selected States, 1985 and 1990

STATES WITH PUBLIC FUNDING FOR ABORTION

STATE	1985	1990	% CHANGE	NATIONAL RANK
Connecticut	6.6	6.6	---	9
Massachusetts	6.0	6.6	+10	9
New Jersey	7.5	6.8	-9	11
New York	7.5	7.4	-2	16
Vermont	5.9	6.0	+1	4

STATES WITHOUT PUBLIC FUNDING FOR ABORTION

STATE	1985	1990	% CHANGE	NATIONAL RANK
Illinois	8.9	10.6	+19	41
Indiana	7.9	9.9	+25	36
Michigan	6.8	9.1	+33	32
Missouri	7.8	10.1	+30	38
Ohio	8.1	10.3	+27	40
Wisconsin	6.8	8.2	+20	27

Information on which states provide funding for abortion from NARAL (1992).

Information on percent of births to single teens from:

Kids Count Data Book, 1993. The Annie E. Casey Foundation, Center for the Study of Social Policy.

Comparing New York and Illinois, both states with major urban centers, proves even more disturbing. A recent time-series analysis using 25 years worth of monthly data from January 1963 to December 1987 "found that the level of births to Black adolescents living in New York City fell 18.7 percent, approximately 142 fewer births per month, after the [New York State abortion] law became effective; the level of White births fell 14.1 percent, approximately 11 fewer births per month. Projections...suggest that a ban on legalized abortion today would have a major impact on adolescent childbearing in New York City as well as other parts of the country... (Joyce and Mocan, 1990)."

More dramatically, in 1990 there were more babies born to girls age 14 and under in Chicago than in New York City, even though New York has nearly 5 million more people. In fiscal year 1990, Illinois funded no abortions while New York State paid for 43,500 abortions for low-income women.

Finally, in 1990 10.6%, or 20,723, of all births in Illinois were to single teens. If Illinois had experienced a percent similar to New York's 7.4, that number would have been reduced to 14,467 or 6256 fewer births to single teens. Even if one attributes only half of those to different policies about public funding for abortions, Illinois could have realized a savings of over \$5.6 million dollars in prenatal and delivery costs alone [(\$2100 x 3128 births) - (\$300 x 3128 births)].

Costs of the unwanted birth, of course, do not stop with the birth. When the economics are carefully studied, the costs to society of a single unwanted birth are much more than \$2,100, as for example when additional hospitalizations are taken into consideration, as well as the costs of a large number of babies who are born with congenital anomalies, (a single case can run to hundreds of thousands of dollars) or the costs of babies who are born at low birthweight, (single babies can cost as much as \$1,000,000 in one year when they have to be hospitalized for a whole year).

In a Northwestern University study conducted between 1979 and 1983 researchers arrived at an estimate of \$35,000/child to support children born to Illinois teenagers for the first five years of life. This constituted an overall annual cost to Illinois of \$853,000,000 (in 1983 dollars) for the over 24,000 births to teens annually. When the costs of foster care (average annual cost - \$10,000) are taken into account and special education (average annual cost - \$9,000), and school failure and welfare benefits are added to the totals as well as later costs of the criminal justice system and jails (average annual cost - \$16,200 as opposed to \$4,200 to keep a child in school), the cost-effectiveness of paying for the abortion are not 7 to 1, but more like 100 to 1.

Quite aside from the economic costs, it is particularly sad that in today's world, very often infants are left in the hospital, never to be taken home by the mother who didn't want the baby, ever. That baby is destined to grow up knowing he or she was unwanted. They often carry the stigma of being a foster child all their life.

Given that the likelihood is very high that babies born to single parents will be poor, do poorly in school, drop out before graduation from high school, appear disproportionately in criminal courts and constitute a high percentage of all incarcerated prisoners...and given that there is evidence public funding for abortion helps prevent unwanted births, especially to single teens...and given the fiscal strain on states that do not use every means at their disposal to reduce the incidence of unwanted births...isn't it time Illinois implemented a plan to provide public funding for abortion?