NLWJC - Kagan
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Welfare-Welfare to Work Legislation [1]

WR- WR-to-work legislation

$3 BILLION TO HELP MOVE PEOPLE FROM WELFARE TO WORK

The Administration is extremely pleased that the new budget includes the President's proposal to create a $3 billion Welfare to Work Jobs Challenge fund. This program will help states and local communities move long-term welfare recipients into lasting, unsubsidized jobs. The budget provides all of the funds the Administration was seeking in this area.

The President first made this proposal last August, as a critical part of his strategy to make welfare reform a success and move 1 million people from welfare to work by the year 2000. This program recognizes that there are special challenges to moving the hardest-to-employ welfare recipients to work and finding jobs for welfare recipients in areas of high unemployment.

These funds can be used for job creation, job placement, and job retention efforts, including wage subsidies to private employers and critical post-employment support services. The Labor Department will provide oversight but the dollars will be placed in the hands of the localities who are on the front lines of the welfare reform effort.

The funds will be awarded starting in 1998, with spending continuing through 2001. 75% of the $3 billion will be distributed under a formula that targets areas of high poverty and unemployment within each state, including inner cities and rural areas. One-quarter will be awarded competitively to innovative projects submitted by local governments, private industry councils, and private entities like community organizations.

Spending must target long-term welfare recipients; those who face special obstacles such as no high school diploma, a need for substance abuse treatment, or a poor work history; and those facing loss of benefits due to time limits. The program gives states and local governments great flexibility to design welfare to work strategies that will be most effective in that community and for that individual.

Notes: This program is for families with children on TANF (formerly AFDC), not single childless adults. Today's New York Times incorrectly described this program as benefitting the latter group, confusing it with the $1 billion that the Administration achieved to create work slots for childless unemployed adults who face a food stamp cut-off.

Also, it was a major political victory for the Administration that states must pass through most of the money to local private industry councils, whose members are appointed by mayors.

WR - WR-to-work legislation

7-28-97 Mtg w/ Levin

Child support - need to add back in language saying state can't force someone to work off child support.

1 PI in 500Y

Ben amenable to this?

FLSA - Rather not have letter

Symbolic defeat - Davis Bacon / Service Contract Act.

Displacement -

	Same	Hours	true Comp?
1. Grievance	Secy of Labor	= same st ag.	indep st ag. want thr language
2. Remedies	Secy/payments ✓		not so bad.
3. Scope of protections			
a) partial	hrs ✓ wages/hours		better than the latter.
b) preemptive			no latter
c) impair / violate			
4. Preemption			

We want

SL - can prob live w/out this

We want.

SL - can live w/out applying to TANF

SL - predominant use shall be for activities ↓ work w/ Rangel??

Protections for people NOT protected by other federal law - gender/other discrim health + safety. ↘ need remedies / grievance procedure

Wf - Wp - t - work legislation

Bruce, Elena --

Here's your very own copy of the final legislative language! I also have the 100 pages of welfare technicals bill language and the food stamp language if you need them.

Cynthia

TITLE V—WELFARE AND RELATED PROVISIONS

SEC. 5000. TABLE OF CONTENTS; REFERENCES.

(a) TABLE OF CONTENTS.—The table of contents of this title is as follows:

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—TANF Block Grant

SEC. 5001. WELFARE-TO-WORK GRANTS.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—Section 403(a) (42 U.S.C. 603(a)) is amended by adding at the end the following:

"(5) WELFARE-TO-WORK GRANTS.—

"(A) FORMULA GRANTS.—

"(i) ENTITLEMENT.—A State shall be entitled to receive from the Secretary of Labor a grant for each fiscal year specified in subparagraph (I) of this paragraph for which the State is a welfare-to-work State, in an amount that does not exceed the lesser of—

"(I) 2 times the total of the expenditures by the State (excluding qualified State expenditures (as defined in section 409(a)(7)(B)(i)) and any expenditure described in subclause (I), (II), or (IV) of section 409(a)(7)(B)(iv)) during the fiscal year for activities described in subparagraph (C)(i) of this paragraph; or

"(II) the allotment of the State under clause (iii) of this subparagraph for the fiscal year.

"(ii) WELFARE-TO-WORK STATE.—A State shall be considered a welfare-to-work State for a fiscal year for purposes of this paragraph if the Secretary of Labor determines that the State meets the following requirements:

"(I) The State has submitted to the Secretary of Labor and the Secretary of Health and Human Services (in the form of an addendum to the State plan submitted under section 402) a plan which—

"(aa) describes how, consistent with this subparagraph, the State will use any funds provided under this subparagraph during the fiscal year;

"(bb) specifies the formula to be used pursuant to clause (vi) to distribute funds in the State, and describes the process by which the formula was developed;

"(cc) contains evidence that the plan was developed in consultation and coordination with appropriate entitites in sub-State areas;

"(dd) contains assurances by the Governor of the State that the private industry council (and any alternate agency designated by the Governor under item (ee)) for a service delivery area in the State will coordinate the expenditure of any funds provided under this subparagraph for the benefit of the service delivery area with the expenditure of the funds provided to the State under section 403(a)(1); and

"(ee) if the Governor of the State desires to have an agency other than a private industry council administer the funds provided under this subparagraph for the benefit of 1 or more service delivery areas in the State, contains an application to the Secretary of Labor for a waiver of clause (vii)(I) with respect to the area or areas in order to permit an alternate agency designated by the Governor to so administer the funds.

"(II) The State has provided to the Secretary of Labor an estimate of the amount that the State intends to expend during the fiscal year (excluding expenditures described in section 409(a)(7)(B)(iv) (other than subclause (III) thereof)) pursuant to this paragraph.

"(III) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(IV) The State is an eligible State for the fiscal year.

"(V) The State certifies that qualified State expenditures (within the meaning of section 409(a)(7)) for the fiscal year will be not less than the applicable percentage of historic State expenditures (within the meaning of section 409(a)(7)) with respect to the fiscal year.

"(iii) ALLOTMENTS TO WELFARE-TO-WORK STATES.—

"(I) IN GENERAL.—Subject to this clause, the allotment of a welfare-to-work State for a fiscal year shall be the available amount for the

fiscal year, multiplied by the State percentage for the fiscal year.

"(II) MINIMUM ALLOTMENT.—The allotment of a welfare-to-work State (other than Guam, the Virgin Islands, or American Samoa) for a fiscal year shall not be less than 0.25 percent of the available amount for the fiscal year.

"(III) PRO RATA REDUCTION.—Subject to subclause (II), the Secretary of Labor shall make pro rata reductions in the allotments to States under this clause for a fiscal year as necessary to ensure that the total of the allotments does not exceed the available amount for the fiscal year.

"(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, the sum of—

"(I) 75 percent of the sum of—

"(aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any available amount for the immediately preceding fiscal year that has not been obligated by a State or sub-State entity.

"(v) STATE PERCENTAGE.—As used in clause (iii), the term 'State percentage' means, with respect to a fiscal year, ½ of the sum of—

"(I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by

the number of such individuals in the United States; and

"(II) the percentage represented by the number of adults who are recipients of assistance under the State program funded under this part divided by the number of adults in the United States who are recipients of assistance under any State program funded under this part.

"(vi) PROCEDURE FOR DISTRIBUTION OF FUNDS WITHIN STATES.—

"(I) ALLOCATION FORMULA.—A State to which a grant is made under this subparagraph shall devise a formula for allocating not less than 85 percent of the amount of the grant among the service delivery areas in the State, which—

"(aa) determines the amount to be allocated for the benefit of a service delivery area in proportion to the number (if any) by which the population of the area with an income that is less than the poverty line exceeds 7.5 percent of the total population of the area, relative to such number for all such areas in the State with such an excess, and accords a weight of not less than 50 percent to this factor;

"(bb) may determine the amount to be allocated for the benefit of such an area in proportion to the number of adults residing in the area who have been recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of

1996 first applied to the State) for at least 30 months (whether or not consecutive) relative to the number of such adults residing in the State; and

"(cc) may determine the amount to be allocated for the benefit of such an area in proportion to the number of unemployed individuals residing in the area relative to the number of such individuals residing in the State.

"(II) DISTRIBUTION OF FUNDS.—

"(aa) IN GENERAL.—If the amount allocated by the formula to a service delivery area is at least $100,000, the State shall distribute the amount to the entity administering the grant in the area.

"(bb) SPECIAL RULE.—If the amount allocated by the formula to a service delivery area is less than $100,000, the sum shall be available for distribution in the State under subclause (III) during the fiscal year.

"(III) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE ENTER UNSUBSIDIZED JOBS.—The Governor of a State to which a grant is made under this subparagraph may distribute not more than 15 percent of the grant funds (plus any amount required to be distributed under this subclause by reason of subclause (II)(bb)) to projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first ap-

plied to the State) enter unsubsidized employment.

"(vii) ADMINISTRATION.—

"(I) PRIVATE INDUSTRY COUNCILS.—The private industry council for a service delivery area in a State shall have sole authority, in coordination with the chief elected official (as described in section 103(c) of the Job Training Partnership Act) of the area, to expend the amounts distributed under clause (vi)(II)(aa) for the benefit of the service delivery area, in accordance with the assurances described in clause (ii)(I)(dd) provided by the Governor of the State.

"(II) ENFORCEMENT OF COORDINATION OF EXPENDITURES WITH OTHER EXPENDITURES UNDER THIS PART.—Notwithstanding subclause (I) of this clause, on a determination by the Governor of a State that a private industry council (or an alternate agency described in clause (ii)(I)(dd)) has used funds provided under this subparagraph in a manner inconsistent with the assurances described in clause (ii)(I)(dd)—

"(aa) the private industry council (or such alternate agency) shall remit the funds to the Governor; and

"(bb) the Governor shall apply to the Secretary of Labor for a waiver of subclause (I) of this clause with respect to the service delivery area or areas involved in order to permit an alternate agency designated by the Governor to administer the funds in accordance with the assurances.

"(III) AUTHORITY TO PERMIT USE OF ALTERNATE ADMINISTERING AGENCY.—The Sec-

retary of Labor shall approve an application submitted under clause (ii)(I)(ee) or subclause (II)(bb) of this clause to waive subclause (I) of this clause with respect to 1 or more service delivery areas if the Secretary determines that the alternate agency designated in the application would improve the effectiveness or efficiency of the administration of amounts distributed under clause (vi)(II)(aa) for the benefit of the area or areas.

"(viii) DATA TO BE USED IN DETERMINING THE NUMBER OF ADULT TANF RECIPIENTS.—For purposes of this subparagraph, the number of adult recipients of assistance under a State program funded under this part for a fiscal year shall be determined using data for the most recent 12-month period for which such data is available before the beginning of the fiscal year.

"(B) COMPETITIVE GRANTS.—

"(i) IN GENERAL.—The Secretary of Labor shall award grants in accordance with this subparagraph, in fiscal years 1998 and 1999, for projects proposed by eligible applicants, based on the following:

"(I) The effectiveness of the proposal in—

"(aa) expanding the base of knowledge about programs aimed at moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment.

"(bb) moving recipients of assistance under State programs funded under this part who are least job ready into unsubsidized employment; and

"(cc) moving recipients of assistance under State programs funded under this

part who are least job ready into unsubsidized employment, even in labor markets that have a shortage of low-skill jobs.

"(II) At the discretion of the Secretary of Labor, any of the following:

"(aa) The history of success of the applicant in moving individuals with multiple barriers into work.

"(bb) Evidence of the applicant's ability to leverage private, State, and local resources.

"(cc) Use by the applicant of State and local resources beyond those required by subparagraph (A).

"(dd) Plans of the applicant to coordinate with other organizations at the local and State level.

"(ee) Use by the applicant of current or former recipients of assistance under a State program funded under this part as mentors, case managers, or service providers.

"(ii) ELIGIBLE APPLICANTS.—As used in clause (i), the term 'eligible applicant' means a private industry council for a service delivery area in a State, a political subdivision of a State, or a private entity applying in conjunction with the private industry council for such a service delivery area or with such a political subdivision, that submits a proposal developed in consultation with the Governor of the State.

"(iii) DETERMINATION OF GRANT AMOUNT.—In determining the amount of a grant to be made under this subparagraph for a project proposed by an applicant, the Secretary of Labor shall provide

the applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account the number of long-term recipients of assistance under a State program funded under this part, the level of unemployment, the job opportunities and job growth, the poverty rate, and such other factors as the Secretary of Labor deems appropriate, in the area to be served by the project.

"(iv) CONSIDERATION OF NEEDS OF RURAL AREAS AND CITIES WITH LARGE CONCENTRATIONS OF POVERTY.—In making grants under this subparagraph, the Secretary of Labor shall consider the needs of rural areas and cities with large concentrations of residents with an income that is less than the poverty line.

"(v) FUNDING.—For grants under this subparagraph for each fiscal year specified in subparagraph (I), there shall be available to the Secretary of Labor an amount equal to the sum of—

"(I) 25 percent of the sum of—

"(aa) the amount specified in subparagraph (I) for the fiscal year, minus the total of the amounts reserved pursuant to subparagraphs (E), (F), (G), and (H) for the fiscal year; and

"(bb) any amount reserved pursuant to subparagraph (F) for the immediately preceding fiscal year that has not been obligated; and

"(II) any amount available for grants under this subparagraph for the immediately preceding fiscal year that has not been obligated.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under this paragraph shall use the funds to move individuals into and keep individuals in lasting unsubsidized employment by means of any of the following:

"(I) The conduct and administration of community service or work experience programs.

"(II) Job creation through public or private sector employment wage subsidies.

"(III) On-the-job training.

"(IV) Contracts with public or private providers of readiness, placement, and post-employment services.

"(V) Job vouchers for placement, readiness, and postemployment services.

"(VI) Job retention or support services if such services are not otherwise available.

Contracts or vouchers for job placement services supported by such funds must require that at least ½ of the payment occur after an eligible individual placed into the workforce has been in the workforce for 6 months.

"(ii) REQUIRED BENEFICIARIES.—An entity that operates a project with funds provided under this paragraph shall expend at least 70 percent of all funds provided to the project for the benefit of recipients of assistance under the program funded under this part of the State in which the entity is located, or for the benefit of noncustodial parents of minors whose custodial parent is such a recipient, who meet the requirements of each of the following subclauses:

"(I) At least 2 of the following apply to the recipient:

"(aa) The individual has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading or mathematics.

"(bb) The individual requires substance abuse treatment for employment.

"(cc) The individual has a poor work history.

"(II) The individual—

"(aa) has received assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 first apply to the State) for at least 30 months (whether or not consecutive); or

"(bb) within 12 months, will become ineligible for assistance under the State program funded under this part by reason of a durational limit on such assistance, without regard to any exemption provided pursuant to section 408(a)(7)(C) that may apply to the individual.

"(iii) TARGETING OF INDIVIDUALS WITH CHARACTERISTICS ASSOCIATED WITH LONG-TERM WELFARE DEPENDENCE.—An entity that operates a project with funds provided under this paragraph may expend not more than 30 percent of all funds provided to the project for programs that provide assistance in a form described in clause (i)—

"(I) to recipients of assistance under the program funded under this part of the State in which the entity is located who have characteristics associated with long-term welfare dependence (such as school dropout, teen pregnancy,

or poor work history), including, at the option of the State, by providing assistance in such form as a condition of receiving assistance under the State program funded under this part; or

"(II) to individuals—

"(aa) who are noncustodial parents of minors whose custodial parent is such a recipient; and

"(bb) who have such characteristics.

To the extent that the entity does not expend such funds in accordance with the preceding sentence, the entity shall expend such funds in accordance with clause (ii).

"(iv) AUTHORITY TO PROVIDE WORK-RELATED SERVICES TO INDIVIDUALS WHO HAVE REACHED THE 5 YEAR LIMIT.—An entity that operates a project with funds provided under this paragraph may use the funds to provide assistance in a form described in clause (i) of this subparagraph to, or for the benefit of, individuals who (but for section 408(a)(7)) would be eligible for assistance under the program funded under this part of the State in which the entity is located.

"(v) RELATIONSHIP TO OTHER PROVISIONS OF THIS PART.—

"(I) RULES GOVERNING USE OF FUNDS.—The rules of section 404, other than subsections (b), (f), and (h) of section 404, shall not apply to a grant made under this paragraph.

"(II) RULES GOVERNING PAYMENTS TO STATES.—The Secretary of Labor shall carry out the functions otherwise assigned by section 405 to the Secretary of Health and Human

Services with respect to the grants payable under this paragraph.

"(III) ADMINISTRATION.—Section 416 shall not apply to the programs under this paragraph.

"(vi) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds, nor any part of State expenditures made to match the funds, to fulfill any obligation of any State, political subdivision, or private industry council to contribute funds under section 403(b) or 418 or any other provision of this Act or other Federal law.

"(vii) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary of Labor any part of the funds that are not expended within 3 years after the date the funds are so provided.

"(viii) REGULATIONS.—Within 90 days after the date of the enactment of this paragraph, the Secretary of Labor, after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary to implement this paragraph.

"(D) DEFINITIONS.—

"(i) INDIVIDUALS WITH INCOME LESS THAN THE POVERTY LINE.—For purposes of this paragraph, the number of individuals with an income that is less than the poverty line shall be determined for a fiscal year—

"(I) based on the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for States and counties

(or, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa, other poverty data selected by the Secretary of Labor); and

"(II) using data for the most recent year for which such data is available before the beginning of the fiscal year.

"(ii) PRIVATE INDUSTRY COUNCIL.—As used in this paragraph, the term 'private industry council' means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act.

"(iii) SERVICE DELIVERY AREA.—As used in this paragraph, the term 'service delivery area' shall have the meaning given such term (or the successor to such term) for purposes of the Job Training Partnership Act.

"(E) SET-ASIDE FOR SUCCESSFUL PERFORMANCE BONUS.—

"(i) IN GENERAL.—The Secretary of Labor shall make a grant in accordance with this subparagraph to each successful performance State in fiscal year 2000.

"(ii) AMOUNT OF GRANT.—The Secretary of Labor shall determine the amount of the grant payable under this subparagraph to a successful performance State, which shall be based on the score assigned to the State under clause (iv)(I)(aa) for such prior period as the Secretary of Labor deems appropriate.

"(iii) FORMULA FOR MEASURING STATE PERFORMANCE.—Not later than 1 year after the date of the enactment of this paragraph, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, the National Gov-

ernors' Association, and the American Public Welfare Association, shall develop a formula for measuring—

"(I) the success of States in placing individuals in private sector employment or in any kind of employment, through programs operated with funds provided under subparagraph (A);

"(II) the duration of such placements;

"(III) any increase in the earnings of such individuals; and

"(IV) such other factors as the Secretary of Labor deems appropriate concerning the activities of the States with respect to such individuals.

The formula may take into account general economic conditions on a State-by-State basis.

"(iv) SCORING OF STATE PERFORMANCE; SETTING OF PERFORMANCE THRESHOLDS.—

"(I) IN GENERAL.—The Secretary of Labor shall—

"(aa) use the formula developed under clause (iii) to assign a score to each State that was a welfare-to-work State for fiscal years 1998 and 1999; and

"(bb) prescribe a performance threshold in such a manner so as to ensure that the total amount of grants to be made under this paragraph equals $100,000,000.

"(II) AVAILABILITY OF WELFARE-TO-WORK DATA SUBMITTED TO THE SECRETARY OF HHS.—The Secretary of Health and Human Services shall provide the Secretary of Labor with the data reported by States under this part with respect to programs operated with funds provided under subparagraph (A).

"(v) SUCCESSFUL PERFORMANCE STATE DEFINED.—As used in this subparagraph, the term 'successful performance State' means a State whose score assigned pursuant to clause (iv)(I)(aa) equals or exceeds the performance threshold prescribed under clause (iv)(I)(bb).

"(vi) SET-ASIDE.—$100,000,000 of the amount specified in subparagraph (I) for fiscal year 1999 shall be reserved for grants under this subparagraph.

"(F) FUNDING FOR INDIAN TRIBES.—1 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for grants to Indian tribes under section 412(a)(3).

"(G) FUNDING FOR EVALUATIONS OF WELFARE-TO-WORK PROGRAMS.—0.6 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to carry out section 413(j).

"(H) FUNDING FOR EVALUATION OF ABSTINENCE EDUCATION PROGRAMS.—

"(i) IN GENERAL.—0.2 percent of the amount specified in subparagraph (I) for fiscal year 1998 and of the amount so specified for fiscal year 1999 shall be reserved for use by the Secretary to evaluate programs under section 510, directly or through grants, contracts, or interagency agreements.

"(ii) AUTHORITY TO USE FUNDS FOR EVALUATIONS OF WELFARE-TO-WORK PROGRAMS.—Any such amount not required for such evaluations shall be available for use by the Secretary to carry out section 413(j).

"(iii) DEADLINE FOR OUTLAYS.—Outlays from funds used pursuant to clause (i) for evaluation of programs under section 510 shall not be made after fiscal year 2001.

"(I) APPROPRIATIONS.—

"(i) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $1,500,000,000 for each of fiscal years 1998 and 1999 for grants under this paragraph.

"(ii) AVAILABILITY.—The amounts made available pursuant to clause (i) shall remain available for such period as is necessary to make the grants provided for in this paragraph.

"(J) WORKER PROTECTIONS.—

"(i) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(I) GENERAL PROHIBITION.—Subject to this clause, an adult in a family receiving assistance attributable to funds provided under this paragraph may fill a vacant employment position in order to engage in a work activity.

"(II) PROHIBITION AGAINST VIOLATION OF CONTRACTS.—A work activity engaged in under a program operated with funds provided under this paragraph shall not violate an existing contract for services or a collective bargaining agreement, and such a work activity that would violate a collective bargaining agreement shall not be undertaken without the written concurrence of the labor organization and employer concerned.

"(III) OTHER PROHIBITIONS.—An adult participant in a work activity engaged in under a program operated with funds provided under

this paragraph shall not be employed or assigned—

"(aa) when any other individual is on layoff from the same or any substantially equivalent job;

"(bb) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or

"(cc) if the employer has caused an involuntary reduction to less than full time in hours of any employee in the same or a substantially equivalent job.

"(ii) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of other participants engaged in a work activity under a program operated with funds provided under this paragraph.

"(iii) NONDISCRIMINATION.—In addition to the protections provided under the provisions of law specified in section 408(c), an individual may not be discriminated against by reason of gender with respect to participation in work activities engaged in under a program operated with funds provided under this paragraph.

"(iv) GRIEVANCE PROCEDURE.—

"(I) IN GENERAL.—Each State to which a grant is made under this paragraph shall establish and maintain a procedure for grievances or complaints from employees alleging violations of clause (i) and participants in work ac-

tivities alleging violations of clause (i), (ii), or (iii).

"(II) HEARING.—The procedure shall include an opportunity for a hearing.

"(III) REMEDIES.—The procedure shall include remedies for violation of clause (i), (ii), or (iii), which may continue during the pendency of the procedure, and which may include—

"(aa) suspension or termination of payments from funds provided under this paragraph;

"(bb) prohibition of placement of a participant with an employer that has violated clause (i), (ii), or (iii);

"(cc) where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

"(dd) where appropriate, other equitable relief.

"(IV) APPEALS.—

"(aa) FILING.—Not later than 30 days after a grievant or complainant receives an adverse decision under the procedure established pursuant to subclause (I), the grievant or complainant may appeal the decision to a State agency designated by the State which shall be independent of the State or local agency that is administering the programs operated with funds provided under this paragraph and the State agency administering, or supervising the administration of, the State program funded under this part.

"(bb) FINAL DETERMINATION.—Not later than 120 days after the State agency designated under item (aa) receives a grievance or complaint made under the procedure established by a State pursuant to subclause (I), the State agency shall make a final determination on the appeal.

"(v) RULE OF INTERPRETATION.—This subparagraph shall not be construed to affect the authority of a State to provide or require workers' compensation.

"(vi) NONPREEMPTION OF STATE LAW.—The provisions of this subparagraph shall not be construed to preempt any provision of State law that affords greater protections to employees or to other participants engaged in work activities under a program funded under this part than is afforded by such provisions of this subparagraph.".

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditure from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

"(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent

that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).".

(b) GRANTS TO OUTLYING AREAS.—Section 1108(a)(2) (42 U.S.C. 1308(a)(2)), as amended by section 5512(a) of this Act, is amended by inserting "403(a)(5)," after "403(a)(4),".

(c) GRANTS TO INDIAN TRIBES.—Section 412(a) (42 U.S.C. 612(a)) is amended by adding at the end the following:

"(3) WELFARE-TO-WORK GRANTS.—

"(A) IN GENERAL.—The Secretary of Labor shall award a grant in accordance with this paragraph to an Indian tribe for each fiscal year specified in section 403(a)(5)(I) for which the Indian tribe is a welfare-to-work tribe, in such amount as the Secretary of Labor deems appropriate, subject to subparagraph (B) of this paragraph.

"(B) WELFARE-TO-WORK TRIBE.—An Indian tribe shall be considered a welfare-to-work tribe for a fiscal year for purposes of this paragraph if the Indian tribe meets the following requirements:

"(i) The Indian tribe has submitted to the Secretary of Labor a plan which describes how, consistent with section 403(a)(5), the Indian tribe will use any funds provided under this paragraph during the fiscal year. If the Indian tribe has a tribal family assistance plan, the plan referred to in the preceding sentence shall be in the form of an addendum to the tribal family assistance plan.

"(ii) The Indian tribe is operating a program under a tribal family assistance plan approved by the Secretary of Health and Human Services, a program described in paragraph (2)(C), or an employment program funded through other sources under which substantial services are provided to re-

cipients of assistance under a program funded under this part.

"(iii) The Indian tribe has provided the Secretary of Labor with an estimate of the amount that the Indian tribe intends to expend during the fiscal year (excluding tribal expenditures described in section 409(a)(7)(B)(iv) (other than subclause (III) thereof)) pursuant to this paragraph.

"(iv) The Indian tribe has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluation under section 413(j), and to cooperate with the conduct of any such evaluation.

"(C) LIMITATIONS ON USE OF FUNDS.—

"(i) IN GENERAL.—Section 403(a)(5)(C) shall apply to funds provided to Indian tribes under this paragraph in the same manner in which such section applies to funds provided under section 403(a)(5).

"(ii) WAIVER AUTHORITY.—The Secretary of Labor may waive or modify the application of a provision of section 403(a)(5)(C) (other than clause (vii) thereof) with respect to an Indian tribe to the extent necessary to enable the Indian tribe to operate a more efficient or effective program with the funds provided under this paragraph.

"(iii) REGULATIONS.—Within 90 days after the date of the enactment of this paragraph, the Secretary of Labor, after consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary to implement this paragraph.".

(d) FUNDS RECEIVED FROM GRANTS TO BE DISREGARDED IN APPLYING DURATIONAL LIMIT ON ASSIST-

ANCE.—Section 408(a)(7) (42 U.S.C. 608(a)(7)) is amended by adding at the end the following:

"(G) INAPPLICABILITY TO WELFARE-TO-WORK GRANTS AND ASSISTANCE.—For purposes of subparagraph (A) of this paragraph, a grant made under section 403(a)(5) shall not be considered a grant made under section 403, and noncash assistance from funds provided under section 403(a)(5) shall not be considered assistance.".

(e) DATA COLLECTION AND REPORTING.—Section 411(a) (42 U.S.C. 611(a)(1)(A)), as amended by section 5507 of this Act, is amended—

(1) in paragraph (1)(A), by adding at the end the following:

"(xviii) With respect to families participating in a program operated with funds provided under section 403(a)(5)—

"(I) any activity described in section 403(a)(5)(C)(i) engaged in by a family member;

"(II) the total amount expended during the month on the family member for each such activity;

"(III) if the family member is engaged in subsidized employment or on-the-job training under the program, the wage paid to the family member and the amount of any wage subsidy provided to the family member from Federal or State funds; and

"(IV) if the participation of a family member in the program was ended during a month due to the family member obtaining employment, the wage of the family member in the employment and whether the participation was ended due to the family member obtaining unsubsidized employment, obtaining subsidized

employment, receiving an increased wage, engaging in a work training activity funded under a program funded other than under section 403(a)(5), or for other reasons.";

(2) in paragraph (2), by inserting ", with a separate statement of the percentage of such funds that are used to cover administrative costs or overhead incurred for programs operated with funds provided under section 403(a)(5)" before the period;

(3) in paragraph (3), by inserting ", with a separate statement of the total amount expended by the State during the quarter on programs operated with funds provided under section 403(a)(5)" before the period;

(4) in paragraph (4), by inserting ", with a separate statement of the number of such parents who participated in programs operated with funds provided under section 403(a)(5)" before the period;

(5) in paragraph (6)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following:

"(C) with respect to families and individuals participating in a program operated with funds provided under section 403(a)(5)—

"(i) the total number of such families and individuals; and

"(ii) the number of such families and individuals whose participation in such a program was terminated during a month.'" and

(6) in paragraph (7), by inserting ", and shall consult with the Secretary of Labor in defining the data elements with respect to programs operated with funds provided under section 403(a)(5)" before the period.

(f) EVALUATIONS.—Section 413 (42 U.S.C. 613) is amended by adding at the end the following:

"(j) EVALUATION OF WELFARE-TO-WORK PROGRAMS.—

"(1) EVALUATION.—The Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development—

"(A) shall develop a plan to evaluate how grants made under sections 403(a)(5) and 412(a)(3) have been used;

"(B) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

"(C) is urged to include the following outcome measures in the plan developed under subparagraph (A):

"(i) Placements in unsubsidized employment, and placements in unsubsidized employment that last for at least 6 months.

"(ii) Placements in the private and public sectors.

"(iii) Earnings of individuals who obtain employment.

"(iv) Average expenditures per placement.

"(2) REPORTS TO THE CONGRESS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall submit to the Congress reports on the projects funded under section 403(a)(5) and 412(a)(3) and on the evaluations of the projects.

"(B) INTERIM REPORT.—Not later than January 1, 1999, the Secretary shall submit an interim report on the matter described in subparagraph (A).

"(C) FINAL REPORT.—Not later than January 1, 2001, (or at a later date, if the Secretary informs the

Committees of the Congress with jurisdiction over the subject matter of the report) the Secretary shall submit a final report on the matter described in subparagraph (A).".

(g) PENALTIES.—

(1) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—

(A) IN GENERAL.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(13) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—If a grant is made to a State under section 403(a)(5)(A) for a fiscal year and paragraph (7) of this subsection requires the grant payable to the State under section 403(a)(1) to be reduced for the immediately succeeding fiscal year, then the Secretary shall reduce the grant payable to the State under section 403(a)(1) for such succeeding fiscal year by the amount of the grant made to the State under section 403(a)(5)(A) for the fiscal year.".

(B) INAPPLICABILITY OF GOOD CAUSE EXCEPTION.—Section 409(b)(2) of such Act (42 U.S.C. 609(b)(2)), as amended by section 5506(k) of this Act, is amended by striking "or (12)" and inserting "(12), or (13)".

(C) INAPPLICABILITY OF CORRECTIVE COMPLIANCE PLAN.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)(4)), as amended by section 5506(m) of this Act, is amended by striking "or (12)" and inserting "(12), or (13)".

(2) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—Section 409(a)(1) of such Act (42 U.S.C. 609(a)(1)) is amended by adding at the end the following:

"(C) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—If the Secretary of Labor finds that an amount paid to an entity under section 403(a)(5)(B) has been used in violation of subparagraph (B) or (C) of section 403(a)(5), the entity shall remit to the Secretary of Labor an amount equal to the amount so used.".

(h) CLARIFICATION THAT SANCTIONS AGAINST RECIPIENTS UNDER TANF PROGRAM ARE NOT WAGE REDUCTIONS.—

(1) IN GENERAL.—Section 408 (42 U.S.C. 608) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following:

"(c) SANCTIONS AGAINST RECIPIENTS NOT CONSIDERED WAGE REDUCTIONS.—A penalty imposed by a State against the family of an individual by reason of the failure of the individual to comply with a requirement under the State program funded under this part shall not be construed to be a reduction in any wage paid to the individual.".

(2) RETROACTIVITY.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(i) GAO STUDY OF EFFECT OF FAMILY VIOLENCE ON NEED FOR PUBLIC ASSISTANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the effect of family violence on the use of public assistance programs, and in particular the extent to which family violence prolongs or increases the need for public assistance.

(2) REPORT.—Within 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Ways and Means and Education and the Workforce of the House of Representatives and the

Committee on Finance of the Senate a report that contains the findings of the study required by paragraph (1).

SEC. 5002. LIMITATION ON AMOUNT OF FEDERAL FUNDS TRANSFERABLE TO TITLE XX PROGRAMS.

(a) IN GENERAL.—Section 404(d) (42 U.S.C. 604(d)) is amended—

(1) in paragraph (1), by striking "A State may" and inserting "Subject to paragraph (2), a State may"; and

(2) by amending paragraph (2) to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) RETROACTIVITY.—The amendments made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5003. LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 407(c)(2)(D) (42 U.S.C. 607(c)(2)(D)) is amended to read as follows:

"(D) LIMITATION ON NUMBER OF PERSONS WHO MAY BE TREATED AS ENGAGED IN WORK BY REASON OF PARTICIPATION IN EDUCATIONAL ACTIVITIES.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 30 percent of the number of individuals in all families and in 2-parent families, respectively, in a State who are treated as engaged in work for a month may consist of individuals who are determined to be engaged in work for the month by reason of participation in vocational educational training, or (if the month is in fiscal year 2000 or thereafter)

deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 5004. PENALTY FOR FAILURE OF STATE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.

(a) IN GENERAL.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 5001(f)(1)(A) of this Act, is amended by adding at the end the following:

"(14) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(b) RETROACTIVITY.—The amendment made by subsection (a) of this section shall take effect as if included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subtitle B—Supplemental Security Income

SEC. 5101. EXTENSION OF DEADLINE TO PERFORM CHILDHOOD DISABILITY REDETERMINATIONS.

Section 211(d)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2190) is amended—

(1) in subparagraph (A)—

(A) in the 1st sentence, by striking "1 year" and inserting "18 months"; and

(B) by inserting after the 1st sentence the following: "Any redetermination required by the preceding sentence that is not performed before the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter."; and

(2) in subparagraph (C), by adding at the end the following: "Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.".

SEC. 5102. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) FEE SCHEDULE.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 1616(d)(2)(B) (42 U.S.C. 1382e(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii); and

(ii) by striking clause (iv) and inserting the following:

"(iv) for fiscal year 1997, $5.00;

"(v) for fiscal year 1998, $6.20;

"(vi) for fiscal year 1999, $7.60;

"(vii) for fiscal year 2000, $7.80;
"(viii) for fiscal year 2001, $8.10;
"(ix) for fiscal year 2002, $8.50; and
"(x) for fiscal year 2003 and each succeeding fiscal year—
"(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or
"(II) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 1616(d)(2)(C) of such Act (42 U.S.C. 1382e(d)(2)(C)) is amended by striking "(B)(iv)" and inserting "(B)(x)(II)".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—

(A) IN GENERAL.—Section 212(b)(3)(B)(ii) of Public Law 93–66 (42 U.S.C. 1382 note) is amended—

(i) by striking "and" at the end of subclause (III); and

(ii) by striking subclause (IV) and inserting the following:

"(IV) for fiscal year 1997, $5.00;
"(V) for fiscal year 1998, $6.20;
"(VI) for fiscal year 1999, $7.60;
"(VII) for fiscal year 2000, $7.80;
"(VIII) for fiscal year 2001, $8.10;
"(IX) for fiscal year 2002, $8.50; and
"(X) for fiscal year 2003 and each succeeding fiscal year—

"(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

"(bb) such different rate as the Commissioner determines is appropriate for the State.".

(B) CONFORMING AMENDMENT.—Section 212(b)(3)(B)(iii) of such Act (42 U.S.C. 1382 note) is amended by striking "(ii)(IV)" and inserting "(ii)(X)(bb)".

(b) USE OF NEW FEES TO DEFRAY THE SOCIAL SECURITY ADMINISTRATION'S ADMINISTRATIVE EXPENSES.—

(1) CREDIT TO SPECIAL FUND FOR FISCAL YEAR 1998 AND SUBSEQUENT YEARS.—

(A) OPTIONAL STATE SUPPLEMENTARY PAYMENT FEES.—Section 1616(d)(4) (42 U.S.C. 1382e(d)(4)) is amended to read as follows:

"(4)(A) The first $5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(B) That portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws. The amounts so credited shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the amounts so credited shall be credited as a discretionary off-

set to discretionary spending to the extent that the amounts so credited are made available for expenditure in appropriations Acts.".

(B) MANDATORY STATE SUPPLEMENTARY PAYMENT FEES.—Section 212(b)(3)(D) of Public Law 93–66 (42 U.S.C. 1382 note) is amended to read as follows:

"(D)(i) The first $5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

"(ii) The portion of each administration fee in excess of $5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act and related laws. The amounts so credited shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the amounts so credited shall be credited as a discretionary offset to discretionary spending to the extent that the amounts so credited are made available for expenditure in appropriations Acts.".

(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act and section 212(b)(3)(D)(ii) of Public Law 93–66 to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed $35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter.

I. WELFARE-TO-WORK GRANT, BLOCK GRANTS FOR TEMPORARY ASSISTANCE TO NEEDY FAMILIES, AND OTHER PROVISIONS

1. Welfare-to-Work Grants

a. Purpose

Current Law

The 1996 welfare reform law combined recent Federal funding levels for three repealed programs--AFDC, Emergency Assistance (EA), and JOBS--into a single block grant for Temporary Assistance for Needy Families (TANF). The TANF grant equals $16.4 billion annually through Fiscal Year 2002. The law also provides an average of $2.3 billion annually in a child care block grant. Each State is entitled to the sum it received for AFDC, EA, and JOBS in a recent year, but no part of the TANF grant is earmarked for any program component, such as benefits or work programs.

House Bill

Provides $3 billion to States and localities for additional resources to support welfare-to-work (WTW) efforts.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

b. Administering Agency

Current Law

HHS administers the TANF block grant but has limited authority over State programs, except in setting penalties and in conducting evaluations of State performance in meeting program goals.

House Bill

The WTW block grant would be administered by the Department of Labor in consultation with the Secretary of HHS and the Secretary of HUD.

Senate Amendment

The WTW block grant would be administered by the Secretary of HHS.

Conference Agreement

The conference agreement follows the House bill so that the Department of Labor would administer the program.

c. Inter-Agency Coordination

Current Law

No provision.

House Bill

Note: The House bill contains separate provisions from the committees of jurisdiction (the Committee on Ways and Means and the Committee on Education and the Workforce) on interagency coordination and several other provisions described below related to welfare-to-work grants.

Committee on Ways and Means

Formula Grant Provisions:

1. Administered by the State TANF agency or another agency designated by the Governor.
2. Plans must be approved by the State TANF agency.
3. Private Industry Councils (PICs) have sole authority for expenditures in Service Delivery Areas (SDAs) under the 85 percent portion of the non-competitive funds, pursuant to an agreement with the agency responsible for administering TANF in the SDA.
4. If the Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines that a PIC and the agency responsible for administering TANF in the SDA are not adhering to their agreement, funding shall be remitted to the Secretary of Labor.

Competitive Grant Provisions:

Proposals must be approved by State TANF agency.

Committee on Education and the Workforce

Formula Grant Provisions:

1. Administered by the State TANF agency or another agency designated by the Governor.
2. No provision on whether plans must be approved by the State TANF agency.
3. Private Industry Councils have sole authority for expenditures in SDAs under the 85 percent portion of the non-competitive funds, in coordination with the chief elected official of the SDA.
4. No provision on remission of funding in the event of noncompliance.

Senate Amendment

Formula Grant Provisions:

1. Administered by the State TANF agency.
2. Plans must be approved by the State TANF agency (same as Ways and Means).
3. No provision on PICs.
4. If the Secretary of HHS determines that an entity operating a project and the agency responsible for administering the State TANF program are not adhering to their agreement, funding shall be remitted to the Secretary.

Competitive Grant Provisions:

Proposals must be approved by State TANF agency. In addition, if the Secretary of HHS determines that an entity operating a project and the agency responsible for administering the State TANF program are not adhering to their agreement, funding shall be remitted to the Secretary.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with modifications. The Governor is to submit the plan to the Secretary of Labor and Secretary of HHS. The provision regarding approval of State plans by State agencies is dropped. Private Industry Councils (PICs) have authority, in coordination with the area's chief elected official, for expenditures in SDAs under the 85 percent portion of the non-competitive funds. The addendum to the State TANF plan for formula grants must contain an assurance by the Governor that the PIC (or through a waiver, an alternative entity) will coordinate welfare-to-work funds with TANF funds.

The conference agreement requires that PICs, political subdivisions of States, or private entities working in conjunction with a PIC or a political subdivision develop

competitive grant proposals in consultation with the State's Governor.

d. Entitlement and Distribution of Funds

Current Law

No provision.

House Bill

A total of $3 billion is authorized for distribution among States, sub-state units, and Indian tribes for the welfare-to-work program: $1.5 billion is provided in Fiscal Year 1998, and $1.5 billion in Fiscal Year 1999.

Under the provision adopted by the Committee on Ways and Means, after subtracting set-asides, funds are distributed 50 percent by formula to States and 50 percent to PICs or political subdivisions of States through a competitive grant process (see below).

Under the provision adopted by the Committee on Education and the Workforce, after set-asides, funds are distributed 95 percent by formula to States and 5 percent to PICs or political subdivisions of States through a competitive grant process.

The House bill provides for the following set-asides: (1) 1 percent set-aside each year for Indian tribes that choose to run their own program; and (2) 0.5 percent set-aside each year for evaluations through HHS.

Funds not expended within 3 years must be returned.

Senate Amendment

A total of $3 billion is authorized for distribution among States, sub-state units, and Indian tribes for the welfare-to-work program. In Fiscal Year 1998, $0.75 billion is provided; in Fiscal Year 1999, $1.25 billion; and in Fiscal Year 2000, $1.00 billion.

After set-asides, funds are distributed 75 percent by formula to States and 25 percent to political subdivisions of States through a competitive grant process (see below).

The set-asides for Indian tribes and evaluation and the provisions allowing States

and localities up to three years to expend grant funds are identical to the House bill.

A $100 million set-aside from Fiscal Year 1999 funding is provided for a high performance bonus payable to qualifying States in Fiscal Year 2003.

Conference Agreement

The conference agreement follows the House bill by providing $1.5 billion in each of Fiscal Years 1998 and 1999.

The conference agreement follows the Senate amendment on division of funds between formula and competitive grants so that 75 percent of funds is for formula grants and 25 percent is for competitive grants. The conference agreement provides a reservation of 0.8 percent of welfare-to-work funds for each of Fiscal Years 1998 and 1999 for evaluations; in addition, the conference agreement authorizes the Secretary to use no more than $6 million of this funding for evaluation of abstinence programs. The provisions on set-asides for Indian tribes and spending funds over no more than three years are identical in the House bill and the Senate amendment. The conference agreement follows the Senate amendment in providing a $100 million performance set-aside from Fiscal Year 1999 funds. The successful performance bonus would be paid to States in Fiscal Year 2000.

e. Matching Requirements

Current Law

No provision.

House Bill

States must meet a 33 percent match requirement for non-competitive grants (i.e. State must spend 50¢ to receive $1 in Federal funds). States that do not fully expend the estimated State share of welfare-to-work funds will have their TANF grants reduced by the difference the following year. State matching funds cannot be used to satisfy matching requirements for other programs. Indian tribes are not required to put up any matching funds.

Senate Amendment

States must certify that they plan to spend 33¢ for each Federal dollar received in noncompetitive funds (¼ match). State matching funds cannot be used to satisfy

matching requirements for other programs. The provision on matching by Indian tribes is identical to the House bill.

Conference Agreement

The conference agreement follows the House bill by requiring a 33 percent State match. The House bill and the Senate amendment are identical in requiring no match by Indian tribes. The conference agreement follows the House bill and the Senate amendment in providing that State funds cannot be used to satisfy matching requirements for other programs, with the added clarification that State funds expended to match Federal welfare-to-work grants cannot be used to match or satisfy State spending requirements for the TANF contingency fund, child care block grant matching funds, or any other Federal program.

f. Prior State Spending Requirements

Current Law

States are required to maintain their own spending for TANF-eligible families at 75 percent of their "historic" level (Fiscal Year 1994 spending on the replaced programs and AFDC-related child care), and, under penalty of loss of funds, they must achieve specified work participation rates. If work participation rates are not met, the State must spend 80 percent of its historic level.

House Bill

Under the provision adopted by the Committee on Ways and Means, qualified State expenditures must be at least 80 percent of historic State expenditures for the current or prior year. The Committee on Education and the Workforce did not specify a prior State spending requirement.

Senate Amendment

State must meet prior year's State maintenance of effort requirement.

Conference Agreement

The conference agreement follows the Senate amendment, with the clarification that a State must meet the TANF maintenance of effort requirement in a year for which it receives a welfare-to-work formula grant.

g. Allocation of Formula Funds to States

Current Law

No provision.

House Bill

Committee on Ways and Means

50 percent of the appropriated funds (after subtracting set-asides for Indian tribes and evaluation) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population;
2. percent of U.S. adults receiving TANF assistance; and
3. percent of U.S. unemployed.

Committee on Education and the Workforce

95 percent of appropriated funds (after subtracting set-asides for Indian tribes and evaluation) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population; and
2. percent of U.S. adults receiving TANF assistance.

Senate Amendment

75 percent of the appropriated funds (after subtracting set-asides for Indian tribes, evaluation, and high performance bonuses) are distributed to States with approved State welfare-to-work plans allocated on the basis of each State's average of the following:

1. percent of U.S. poverty population;
2. percent of U.S. adults receiving TANF assistance; and
3. percent of U.S. unemployed.

A small State minimum of 0.5 percent of appropriated funds (after subtracting set-asides for Indian tribes and evaluation) will apply to all States; i.e. regardless of how much a small State would receive under the distribution formula, no State can receive less than 0.5 percent of total appropriated funds.

Conference Agreement

The conference agreement follows the provision adopted by the Committee on Education and the Workforce, thus dropping unemployment as a factor. The conference

agreement adopts a small State minimum (Senate provision), but reduces it to 0.25 percent of formula grant funds. The small State minimum does not apply to Guam, the Virgin Islands, or American Samoa.

h. Definition of Welfare-to-Work State

Current Law

No provision.

House Bill

Committee on Ways and Means

The Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines whether States meet the following criteria to qualify as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, the sub-State distribution formula, and evidence that the plan was developed in consultation and coordination with sub-State areas and approved by the State TANF agency;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation;
4. be an eligible TANF State for the fiscal year; and
5. meet 80 percent Maintenance of Effort (MOE) requirements under TANF for current or preceding fiscal year.

Committee on Education and the Workforce

The Secretary of Labor, in consultation with the Secretary of HHS and the Secretary of HUD, determines whether States meet the following criteria as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, a description of the sub-State distribution formula, and evidence that the plan was developed through a collaborative process that, at minimum, included sub-State areas;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation; and
4. be an eligible TANF State for the fiscal year.

Senate Amendment

The Secretary of HHS determines whether States meet the following criteria as a welfare-to-work State:

1. submit a plan as an addendum to their TANF State plan that includes a description of how welfare-to-work funds will be used, a description of the sub-State distribution formula, and evidence that the plan was developed in consultation with sub-State areas and approved by the State TANF agency;
2. provide an estimate of State spending;
3. agree to negotiate with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation;
4. be an eligible TANF State for the fiscal year; and
5. meet prior year's State maintenance of effort requirement.

Conference Agreement

The conference agreement adopts provisions common to both House bills and the Senate amendment, with the clarification that a welfare-to-work State must also certify that it will meet TANF maintenance of effort requirements. The conference agreement requires that the State plan addendum contain assurance that the PIC in an SDA will coordinate expenditure of welfare-to-work funds with the expenditure of the TANF block grant. The plan may contain an application to the Secretary of Labor for a waiver of the requirement that the PIC administer welfare-to-work formula funds within the SDA.

i. Distribution of Formula Funds Within States

Current Law

No provision.

House Bill

Within each State, 85 percent of formula funds are to be distributed to service delivery areas (SDAs) as defined in the Job Training Partnership Act. At least half of the funds must be distributed on the basis of the share of each SDA's population in high poverty (above 5 percent). Additionally, States may incorporate either or both of the following for the remaining 50 percent of the formula: (1) the number of adults receiving TANF assistance in the SDA for 30 months or more (whether or not consecutive); and (2) the number of unemployed residents in the SDA. The remaining 15 percent of formula funds may be distributed by the Governor for projects to help move long-term recipients into work.

Grants to SDAs have a minimum threshold of $100,000; in lieu of distributing lesser amounts, unused funds as a result of this threshold would be added to the Governor's 15 percent fund for projects to help move long-term recipients into work.

Senate Amendment

Within each State, at least 85 percent of formula funds are to be distributed to political subdivisions with poverty and unemployment rates above the State average. At least half of the funds must be distributed on the basis of each subdivision's population in poverty. States may incorporate either or both of the following for the remaining 50 percent of the formula: (1) the number of adults receiving TANF assistance in the political subdivision for 30 months or more (whether or not consecutive); and (2) the number of unemployed residents in the political subdivision (in each case rather than in the SDA as in the House bill). The remaining 15 percent of formula funds may be distributed by the Governor for projects to help move long-term recipients into work.

Grants to political subdivisions (rather than to SDAs as in the House bill) have a minimum threshold of $100,000; in lieu of distributing lesser amounts, unused funds as a result of this threshold would be added to the Governor's 15 percent fund for projects to help move long-term recipients into work.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with the following modifications: the conference agreement follows the House bill with respect to distribution of funds to service delivery areas; and the conference agreement follows the House bill with respect to the formula for such distribution, except the portion of funds distributed based on the share of each SDA's population in poverty is determined by the number in poverty above 7.5 percent instead of above 5 percent.

j. Performance Bonuses

Current Law

No provision. However, the 1996 welfare reform law provides a total of $1 billion in Federal performance bonus funds through Fiscal Year 2003 for States that are the most successful in meeting the goals of the TANF block grant, including ending the dependence of needy parents on government assistance by promoting job preparation and work.

House Bill

No provision.

Senate Amendment

$100 million of Fiscal Year 1999 funds are to be reserved and added to the High Performance Bonus under TANF in Fiscal Year 2003 for welfare-to-work States that are most successful in increasing the earnings of long-term welfare recipients or those at risk of long-term welfare dependency.

Conference Agreement

The conference agreement follows the Senate amendment, with a modification. The conference agreement sets aside $100 million of Fiscal Year 1999 funds for successful performance bonuses to be paid in Fiscal Year 2000. Within 1 year, the Secretary of Labor, in consultation with the Department of Health and Human Services, the National Governors' Association, and the American Public Welfare Association, shall develop a formula for measuring the success of a State which received welfare-to-work formula grants in Fiscal Year 1998 and Fiscal Year 1999 in placing individuals in employment; the duration of such placements; any increase in earnings of individuals and other factors. The Secretary shall use the formula to score each welfare-to-work State and set a threshold for awarding bonuses.

k. Competitive Grant Funds for Private Industry Councils, Private Entities, and Political Subdivisions of States

Current Law

No provision.

House Bill

Committee on Ways and Means

50 percent of welfare-to-work funds (after subtracting set-asides for Indian tribes and evaluation) is distributed to establish competitive grants. Eligible applicants are PICs or political subdivisions of States.

Grants must be sufficient to ensure a reasonable opportunity for success. Not less than 25 percent of competitive funds will be available for grants in rural areas with populations less than 50,000. Not less than 65 percent of competitive funds will be

available for grants among the 100 cities in the U.S. with the highest number of individuals in poverty.

Grants are based on: the likelihood of the project's effectiveness in expanding the base of knowledge about welfare-to-work programs for the least job ready, moving the least job ready into the labor force, and moving the least job ready into the labor force even in labor markets with a shortage of low-skill jobs; at the Secretary's discretion, other factors may be considered: the applicant's success in addressing multiple barriers, ability to leverage other resources, use of State or local resources that exceed the required match, plans to coordinate with other organizations, or use of current or former recipients as mentors, case managers or providers.

Grants made by the Secretary of Labor in consultation with the Secretary of HHS and the Secretary of HUD in Fiscal Years 1998 and 1999.

Committee on Education and the Workforce

5 percent of welfare-to-work funds (after subtracting set-asides for Indian tribes and evaluation) plus any unobligated funds from prior fiscal years, is distributed to establish demonstration projects. Eligible applicants are PICs or political subdivisions of States.

Grants are based on the likelihood of the demonstration project placing long-term recipients into the workforce.

Grants are made by the Secretary of Labor in consultation with the Secretary of HHS and the Secretary of HUD in Fiscal Years 1998 and 1999. Funds remain available until the end of Fiscal Year 2001.

Senate Amendment

Twenty-five percent of welfare-to-work funds (after subtracting set-asides for Indian tribes, evaluation, and high performance bonuses) is distributed to establish competitive grants to political subdivisions of States. Eligible applicants are political subdivisions of States or community action agencies, community development corporations, and other non-profit organizations with demonstrated effectiveness in moving recipients into the work force. Their proposals must be approved by the State TANF agency.

Grants must be sufficient to ensure a reasonable opportunity for success. Not less than 30 percent of competitive funds will be available for grants in rural areas, as defined by the House.

Grants are based on: the likelihood of the project's effectiveness in expanding the base of knowledge about welfare-to-work programs for the least job ready, moving the least job ready into the labor force, and moving the least job ready into the labor force even in labor markets with a shortage of low-skill jobs; at the Secretary's discretion, other factors may be considered: the applicant's success in addressing multiple barriers, ability to leverage other resources, use of State or local resources that exceed the required match, plans to coordinate with other organizations, or use of current or former recipients as mentors, case managers or providers.

Competitive grants awards are made in Fiscal Year 1998 and Fiscal Year 2000.

Conference Agreement

The conference agreement provides that eligible applicants include PICs, political subdivisions of States, or private entities applying in conjunction with a PIC or political subdivision. The House bill and the Senate amendment are identical on the requirement that grants must be sufficient to ensure a reasonable opportunity for success.

The conference agreement does not include a set-aside for rural areas or cities with large concentrations of poverty. However, the Secretary is directed to consider the needs of rural areas and cities in awarding competitive grants.

The conference agreement follows the House bill (Ways and Means provision) and the Senate amendment on the requirement that grants must be made on the basis of the likelihood of the project's effectiveness in expanding knowledge about welfare-to work programs, among other factors.

The conference agreement follows the House bill so that grants are available in Fiscal Years 1998 and 1999.

l. Grants to Indian Tribes

Current Law

No provision.

House Bill

1 percent of appropriated funds is distributed to Indian tribes with welfare-to-work plans, in such amounts as the Secretary deems appropriate.

An Indian tribe shall be considered a welfare-to-work tribe if it meets the following criteria:

1. submit a plan in the form of an amendment to the tribal family assistance plan, if any, (including a description of how welfare-to-work funds will be used);
2. provide an estimate of tribal spending; and
3. agree to negotiate in good faith with the Secretary of HHS on the substance of and cooperate with the conduct of an evaluation.

Senate Amendment

The set-aside for Indian tribes is identical to the House (1 percent of appropriated funds). The criteria for determining an eligible tribe is similar to the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, but adds a provision allowing the Secretary of Labor to waive or modify limitations on the use of welfare-to-work funds by Indian tribes.

m. Grants to Territories/Outlying Areas

Current Law

Total Federal funding to the territories (Puerto Rico, U.S. Virgin Islands, Guam and American Samoa) for public assistance programs, including TANF, is limited to specified dollar amounts. These limits were raised effective October 1, 1996. Territories may receive TANF funds in addition to their family assistance grant on a matching basis to take advantage of their increased caps.

House Bill

Welfare-to-work funds to territories do not count against their public assistance funding cap.

Senate Amendment

Same as House, except refers to "outlying areas" instead of "territories."

Conference Agreement

The conference agreement follows the Senate amendment.

n. Use of Funds

Current Law

No provision.

House Bill

Committee on Ways and Means

Funds must be used to move TANF recipients and noncustodial parents of any minor who is a recipient into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;
3. contracts (through public or private providers) for job readiness, placement or post-employment services;
4. vouchers for job readiness, placement or post-employment services; and
5. job support services (excluding child care) if not otherwise available.

PICs cannot be used to provide direct services.

Funds are subject to the 15 percent cap on administrative costs, may be used for public or private job placement agencies, and may be used to fund Individual Development Accounts.

Committee on Education and the Workforce

Funds must be used to move TANF recipients into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;
3. job placement contracts (through companies or public programs);
4. job vouchers; and
5. job retention or support services, if not otherwise available.

Senate Amendment

Funds must be used to move TANF recipients and noncustodial parents of any minor who is a recipient into the work force through the following:

1. job creation through public or private wage subsidies;
2. on-the-job training;

3. contracts (through public or private providers) for job readiness, placement or post-employment services;
4. vouchers for job readiness, placement or post-employment services;
5. job support services (excluding child care) if not otherwise available; and
6. technical assistance and related services that lead to self-employment through the microloan demonstration program under section 7(m) of the Small Business Act.

Contracts or vouchers for job placement services using welfare-to-work funds must require that at least one-half of the payment be withheld until after the person placed in a job has been at work for at least six months.

Conference Agreement

The conference agreement adopts most provisions of the House bill and Senate amendment on allowable activities, but adds permission for States to spend welfare-to-work funds on community service and work experience programs, and it drops the exclusion of child care from allowable job support services.

The conference agreement follows the Senate amendment to require that contracts or vouchers for job placement services supported by welfare-to-work funds must withhold at least one-half of the payment until after the person has been at work for at least six months. The conference agreement follows the Senate amendment by dropping the House provision specifying that PICs cannot use funds to provide direct services.

The conference agreement adopts the provision in the House bill and the Senate amendment specifying that funds are subject to the 15 percent administrative cap and may be used for job placement or to fund Individual Development Accounts.

o. Eligible Individuals

Current Law

No provision.

House Bill

Committee on Ways and Means

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12

months of reaching the time limit; AND who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

The Secretary shall prescribe regulations necessary to interpret these criteria.

Committee on Education and the Workforce

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12 months of reaching the time limit; OR who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

Senate Amendment

90 percent of funds must be expended on TANF recipients who have received assistance for at least 30 months (whether or not consecutive); OR who are within 12 months of reaching the time limit; OR who meet at least two of the following criteria:

1. are not high school graduates or do not have GED and have low skills in reading and math;
2. require substance abuse treatment for employment;
3. have a poor work history.

Conference Agreement

The conference agreement follows the House bill (Ways and Means) on target criteria, but modifies the provision to require that at least 70 percent of funds (instead of 90 percent) must be spent on the specified groups, with a modification that non-high school graduates have low skills in reading OR mathematics rather than reading AND mathematics. States may spend up to 30 percent of funds on individuals (including non-custodial parents of minors whose custodial parent is a TANF recipient) who have the characteristics of long-term recipients, with the clarification that funds not spent for these purposes shall be used for the same purposes as the 70 percent spent on specified groups. The conference agreement follows the House bill so that the Secretary must prescribe necessary regulations within 90 days after the date of enactment.

p. Interaction with TANF

Current Law

No provision.

House Bill

Adults who received TANF for 60 months are eligible for assistance from the welfare-to-work program. Assistance to individuals from welfare-to-work funds is not counted as TANF assistance for purposes of the TANF 60-month time limit. Welfare-to-work is considered assistance for purposes of other TANF requirements; for example, work participation, child support, and data reporting. States must adopt the welfare-to-work plan as an addendum to their TANF State plan. States must be eligible TANF States for the fiscal year.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the identical provisions in the House bill and the Senate amendment with two modifications. It provides authority to provide assistance to those who have reached the TANF 60-month time limit. It also clarifies that assistance to individuals from welfare-to-work funds does not count toward the TANF 60-month time limit. Months when cash assistance is provided, directly or indirectly (for example, wage subsidies), count toward the 60-month limit.

q. Evaluation

Current Law

No provision.

House Bill

The Secretary of HHS must develop, in consultation with the Secretary of Labor, a plan to evaluate use of welfare-to-work grants. States must agree to negotiate with the Secretary of HHS on the substance and cooperate with the conduct of an evaluation; 0.5 percent of funds is reserved for HHS evaluation. The Secretary is urged to include the following measures:

1. placements in the labor force and placements that last at least six

months;
2. placements in the private and public sectors;
3. earnings of individuals who obtain employment;
4. average expenditures per placement.

The Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of HUD, must report to Congress on projects funded under the welfare-to-work program and on the evaluations of projects. An interim report is due January 1, 1999, and a final report is due January 1, 2001.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the identical provisions in the House bill and the Senate amendment, with the modification that 0.8 percent of total funds is reserved for evaluations, including $6 million for evaluation of abstinence education programs.

r. Data Reporting

Current Law

States are required to collect on a monthly basis and report to the Secretary on a quarterly basis specified information about families receiving TANF assistance. Information on the demographic and financial characteristics of TANF families is reported as disaggregated case records, and may be based on a sample of TANF families. In addition to the disaggregated case records, States are required to report aggregate information on total expenditures, Federal funds used to cover administrative costs, the number of noncustodial parents participating in work activities, and transitional services. The Secretary has the authority to regulate and define the data elements for the required reports.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

Recipients of welfare-to-work funds are subject to TANF reporting requirements. In addition to the information required of all TANF families, States are required to report additional information on families with a member receiving welfare-to-work assistance, including the types of welfare-to-work activities they engaged in, the amount expended for the recipient in the activity, and information about their employment or training status when their welfare-to-work assistance ends. Additionally, separate information on aggregate welfare-to-work expenditures, administrative costs, and noncustodial parents in the welfare-to-work program is required.

2. Workfare -- Rules for Community Service and Work Experience Programs

Current Law

States may establish work experience and community service programs in which TANF recipients may be required to work as a condition of receiving their grant. These programs are often called "workfare." The Department of Labor has held that workfare participants may be considered "employees" and thus would be covered by the Fair Labor Standards Act (FLSA), which sets hour and wage standards, and other employment laws.

House Bill

Work experience and community service programs are designed to improve the employability of participants through actual work experience or training. Such programs are limited to projects which serve a useful public purpose. Participants may not be placed in private, for-profit organizations and may not be required to participate for more hours than the combined value of their TANF and Food Stamp benefits minus child support collected and retained by the State, divided by the greater of the Federal or State minimum wage. Participants engaged in work experience and community service programs are not entitled to a salary or work or training expenses and are not entitled to any other compensation for work performed.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment (no provision).

2a. Sanctions

Current Law

No provision (see above).

House Bill

No provision.

Senate Amendment

Notwithstanding minimum wage requirements, States retain the ability to sanction a family for noncompliance with program rules.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Counting Any Other Work Activity for Recipients with Sufficient Participation in Workfare Programs

Current Law

TANF law requires single adult parents to engage in "work activities" for an average of 20 hours weekly in Fiscal Years 1997 and 1998 (more in later years) and requires that all 20 hours be spent in specified "priority" activities (not including, for instance, job skills training). In Fiscal Year 1999, when required work hours for those without a preschooler climb to 25 hours, 5 hours credit may be received for lower priority work activities. (Required weekly work hours for 2-parent families are 35, with 30 in "priority" activities.) TANF law also places time limits on vocational educational training (12 months per person) and job search.

House Bill

Participants in work experience and community service programs who do not meet the hourly work requirements when minimum wage is taken into account can meet the remaining hours of the work requirement by participating in any other work activity. States must treat persons who participate enough hours, calculated at the minimum wage, to equal their combined TANF/food stamp benefits (less child support collections not

distributed to them) as engaged in work if they make up any shortfall in required hours by time spent in other work activity.

The provision provides an alternative method for a TANF recipient to meet the hourly work requirements. It does not preclude a recipient from meeting the hourly work requirements through other means. For example, a single parent with a child under age 6 would meet hourly work requirements by engaging in work for 20 hours per week.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment (no provision).

4. Protections for Employees and TANF Participants

Current Law

Although a TANF recipient may fill a vacant employment position, no adult in a TANF work activity may be employed or assigned when another person is on layoff from the same or any substantially equivalent job; or if the employer has caused an involuntary workforce reduction in order to fill the resulting vacancy with a TANF recipient. These provisions do not preempt or supersede any State or local law that provides greater protection against displacement. TANF-funded activities are subject to the Age Discrimination Act, the Americans with Disabilities Act, Title VI of the Civil Rights Act, and Sec. 504 of the Rehabilitation Act.

House Bill

Displacement: Participants in activities funded by welfare-to-work funds and TANF may fill a vacant employment position in order to engage in a work activity, except when another individual is on layoff from the same or substantially equivalent job or if the employer has caused an involuntary reduction in the workforce with the intention of filling the vacancy with the participant.

Impairment of contracts: The work activity cannot impair an existing contract for services or collective bargaining agreement. Any activity that would impair an existing contract or agreement cannot be undertaken without written consent of the labor organization and employer.

Health and safety: Otherwise applicable Federal and State health standards shall apply to all TANF and welfare-to-work participants engaged in a work activity.

Nondiscrimination: Adds gender to the other nondiscrimination provisions applicable to TANF and welfare-to-work participants.

Grievance procedure: States must establish grievance procedures for employees alleging nondisplacement violations and for TANF and welfare-to-work participants who allege violations of provisions regarding nondisplacement, health and safety standards, or gender discrimination. The procedure must include an opportunity for a hearing.

Remedies: States must provide remedies for violations of anti-displacement, health and safety, and anti-discrimination protections, which may include reinstatement of an employee with payment of lost wages and benefits, reestablishment of terms, conditions and privileges of employment, and where appropriate, other equitable relief.

Senate Amendment

Displacement: Participants in activities funded by welfare-to-work funds cannot displace current employees (including a reduction in hours, wages, or benefits) or be employed in a job resulting from a layoff or a workforce reduction to create the vacancy or in a job that impairs promotional opportunities for current employees.

Impairment of contracts: Existing contracts for services or collective bargaining agreements cannot be impaired by a work activity; any activity inconsistent with a collective bargaining agreement cannot be undertaken without the written consent of the labor organization and employer.

Health and safety: Otherwise applicable Federal and State health and safety standards, as well as workers' compensation, apply to welfare-to-work participants.

Grievance procedures: States must establish grievance procedures which include an opportunity for a hearing within 60 days, with appeal rights to the Secretary of Labor.

Investigation: Requires the Secretary of Labor to investigate alleged violations of nondisplacement and health and safety provisions if decision on alleged complaint is not reached within 60 days and either party appeals; or if decision is reached and appealed.

Remedies: Remedies are limited to suspension or termination of payments, prohibition of placement with an employer who violated these provisions, reinstatement of the employee and payment of lost wages and benefits, or equitable relief.

Conference Agreement

The conference agreement follows the Senate amendment by applying the specified protections to welfare-to-work participants but not all TANF participants engaged in work activities. The agreement follows the House bill regarding displacement, with the modification that an involuntary reduction in hours to less than full-time work is prohibited and the clarification that State laws, if broader, are not preempted by this federal provision. With regard to impairment of contracts, the conference agreement follows the Senate amendment, with clarification that an activity that would "violate" a collective bargaining agreement cannot be undertaken without written consent of the labor organization and employer. The conference agreement follows the House bill and the Senate amendment on health and safety protections.

The conference agreement follows the House bill on nondiscrimination protections. On grievance procedures, the conference agreement follows the House bill with the modification that States have the option of continuing any sanctions during the grievance procedure. In addition, the State grievance procedure must include an opportunity for appeal to a State agency other than the agency administering the State welfare-to-work program; however, this condition will be satisfied by the allowance of appeals to an independent review board within the agency administering the State welfare-to-work program. On investigations, the conference agreement follows the House bill (thus, there is no provision). The conference agreement follows the Senate amendment on remedies.

5. Limit on Vocational Educational Training as a Work Activity

Current Law

The law restricts to 20 percent the proportion of TANF recipients "in all families and in 2-parent families" who may be treated as engaged in work for a month by reason of participating in vocational educational training or, if single teenage household heads without a high school diploma, by reason of satisfactory attendance at secondary school or participation in education directly related to employment.

House Bill

The provision adopted by the Committee on Ways and Means clarifies the limit on the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities as 30 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month. Teen heads of households who are deemed to be meeting the work requirements by maintaining

satisfactory school attendance or participating in education directly related to work are specifically excluded from the cap.

The provision adopted by the Committee on Education and the Workforce clarifies the limit on the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities as 20 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month or deemed to be engaged in work by reason of being teen heads of households who are maintaining satisfactory school attendance or participating in education directly related to work.

Senate Amendment

Allows 20 percent of persons in all families and in two-parent families (other than those headed by teen parents without a high school diploma) to be treated as engaged in work by reason of participation in vocational educational activities. Strikes the limit on the number of teen parents who may meet the work requirement by maintaining satisfactory school attendance or participating in education directly related to work.

Conference Agreement

The conference agreement follows the House bill (provision adopted by the Committee on Ways and Means) so that the number of persons who may be treated as engaged in work by reason of participation in vocational educational activities is limited to 30 percent of individuals in all families and in two-parent families, respectively, who are engaged in work for a month. The conference agreement provides that teen heads of households who are deemed to be meeting the work requirements by maintaining satisfactory school attendance or participating in education directly related to work are specifically excluded from the cap for Fiscal Years 1998 and 1999.

6. Limit on Transfer of TANF Funds

Current Law

States may transfer up to 30 percent of their TANF funds to the Title XX social services block grant and the Child Care and Development Block Grant (CCDBG), but no more than one-third of the total transfer may go to the former. Thus, for every $1 transferred to Title XX, $2 must be transferred to the child care block grant. TANF funds transferred to Title XX can be spent only on children and families with income below 200 percent of the poverty guideline.

House Bill

Limits the amount transferrable to Title XX to 10 percent of the TANF block grant without respect to any transfers to the Child Care and Development Block Grant. Up to 30 percent may be transferred to the CCDBG, but total transfers are limited to 30 percent, and current law restrictions on funds transferable into the Title XX program remain in effect.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

7. Penalty Against State for Not Reducing Benefit of Recipient for Refusal to Work

Current Law

If an adult recipient refuses to engage in required work, the State must reduce aid to the family pro rata (or more, at State option) or shall discontinue aid, subject to good cause and other exceptions of the State.

House Bill

A State shall be penalized between 1 percent and 5 percent of its TANF block grant if it fails to reduce a recipient's grant for refusing without good cause to participate in work. The Secretary is to impose the reduction based on the degree of noncompliance.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

8. Family Violence Exemptions from TANF Rules

Current Law

TANF law gives the State an option to certify that it has established and is enforcing standards to screen and identify recipients with a history of domestic violence, to refer them to counseling and supportive services, and to waive some program requirements, such as time limits (subject to the 20 percent limit on exemptions from the Federal 5-year time limit), for TANF recipients in cases where the requirements would make it harder for them to escape domestic violence or would unfairly penalize persons who have been victimized by domestic violence or those at risk of further violence.

House Bill

No provision.

Senate Amendment

Provides that:

1. States shall not be subject to any numerical limitation in the granting of good cause waivers in accordance with the Family Violence Option;
2. HHS shall exclude persons with a family violence waiver in determining a State's compliance with work participation rates and enforcement of the time limit. HHS shall exclude these persons in determining whether to impose a penalty for a State's failure to meet participation rates, enforce the time limit, or enforce penalties requested by the child support agency against TANF recipients for their failure to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order without good cause;
3. Prohibits the Federal Parent Locator Service from disclosing information (except to a court) if there is reasonable evidence of domestic violence or child abuse or if the health, safety, or liberty of a parent or child would be unreasonably put at risk by the disclosure.

Conference Agreement

The conference agreement follows the House bill (i.e. dropping the Senate provision). Instead, the conference agreement requires that the General Accounting Office conduct a study of the effect of family violence on the use of welfare programs.

9. Penalty for Failure to Meet Minimum Participation Rates

Current Law

TANF law requires the HHS Secretary to reduce a State's TANF block grant if it

falls short of the required work participation rate. For the first year of failure, the penalty is not more than 5 percent of the grant; in subsequent years, annual penalties would rise by 2 percentage points per year; e.g., up to 7 percent in second year, 9 percent in the second year, and so forth--with a maximum cumulative penalty of 21 percent. States must replace Federal funds lost because of penalties with funds of their own.

House Bill

No provision.

Senate Amendment

Requires penalty of 5 percent for first failure (7 percent for next, rising to a maximum of 21 percent). Adds proviso that the Secretary may reduce the penalty if noncompliance is due to "extraordinary circumstances, such as a natural disaster or regional recession." In this case, the Secretary must justify the penalty reduction to Congress in writing.

Conference Agreement

The conference agreement follows the Senate amendment.

10. Data Collection About TANF Families

Current Law

TANF law requires States to report quarterly information about recipient families. One question asks whether a child receiving TANF or an adult in the family is disabled.

House Bill

Revises and expands the current question. Requires States to report: whether a child or adult in a TANF recipient family is receiving disability benefits under specified provisions of the Social Security Act; namely, section 202, section 223, Title XIV (for needy adults in the outlying areas), Title XVI (Federal SSI), or Title XVI (State supplements to SSI).

Senate Amendment

Broadens the question about disability status to include benefits outside the Social Security Act. Requires States to report whether a TANF child or adult is receiving

"Federal disability insurance benefits or benefits based on Federal disability status."

Conference Agreement

The conference agreement follows the Senate amendment. (This provision appears in the section on technical corrections.)

II. SUPPLEMENTAL SECURITY INCOME

11. Requirement to Perform Childhood Disability Redeterminations in Missed Cases

Current Law

By August 22, 1997 (one year after the date of enactment of P.L. 104-193), the Commissioner of the Social Security Administration (SSA) is expected to redetermine the eligibility of any child receiving SSI benefits on August 22, 1996, whose eligibility may be affected by changes in childhood disability eligibility criteria, including the new definition of childhood disability and the elimination of the individualized functional assessment. Benefits of current recipients will continue until the later of July 1, 1997 or a redetermination assessment. Should a child be found ineligible, benefits will end following redetermination. Within 1 year of attainment of age 18, SSA is expected to make a medical redetermination of current SSI childhood recipients using adult disability eligibility criteria. For low birth weight babies, a review must be conducted within 12 months after the birth of a child whose low birth weight is a contributing factor to his or her disability.

House Bill

This provision extends from 1 year after the date of enactment to 18 months after the date of enactment the period by which SSA must redetermine the eligibility of any child receiving benefits on August 22, 1996 whose eligibility may be affected by changes in childhood disability. The provision also specifies that any child subject to an SSI redetermination under the terms of the welfare reform law whose redetermination does not occur during the 18-month period following enactment (that is, by February 22, 1998) is to be assessed as soon as practicable thereafter using the new eligibility standards applied to other children under the welfare reform law.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

12. Repeal of Maintenance-of-Effort Requirement for Optional State Supplementation of SSI Benefits

Current Law

States have an option to supplement the Federal SSI payment with their own funds. States that operate optional supplementation programs are required by Section 1618 of the Social Security Act to "pass along" the amount of any Federal SSI benefit increase to recipients. The law allows States to comply with this requirement by either maintaining their supplementary payment levels to recipients of a given type at or above 1983 levels or by maintaining their supplementary payments at a level that, when combined with Federal payments, at least equals combined payments to the same type of recipients during the previous 12 months. In effect, Section 1618 requires that once a State elects to provide supplementary payments, it must continue to do so.

House Bill

The House Bill repeals Section 1618, ending the requirement that States pass along any Federal benefit increase to recipients.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment (no provision).

13. Fees for Federal Administration of State Supplementary Payments

Current Law

The law requires the Commissioner of Social Security to assess an administration fee for making State supplementary SSI payments (optional or mandatory) on behalf of States. For Fiscal Year 1997 and each succeeding fiscal year, the fee is $5.00 monthly or

a different rate that the Commissioner determines to be appropriate for the State. The administration fees--along with any additional service fees that the Commissioner imposes to cover costs--are deposited in the general fund of the Treasury as miscellaneous receipts.

House Bill

The House Bill increases fees for administering State supplements (optional or mandatory) as follows:

For Fiscal Year 1998 ..... $6.20
For Fiscal Year 1999 ..... $7.60
For Fiscal Year 2000 ..... $7.80
For Fiscal Year 2001 ..... $8.10
For Fiscal Year 2002 ..... $8.50

For Fiscal Year 2003 and each succeeding fiscal year, the rate in the preceding year, adjusted for price inflation (by use of the Consumer Price Index); or a different rate that the Commissioner determines to be appropriate for the State.

The first $5 in monthly administration shall be deposited in the general fund of the Treasury as miscellaneous receipts. The remaining portion of administration fees (and 100 percent of additional services fees) shall, upon collection for Fiscal Year 1998 and later years, be credited to a special Treasury fund to be available to defray expenses in carrying out SSI and related laws.

The bill authorizes $35 million to be appropriated from the new special Treasury fund for Fiscal Year 1998 and "such sums as are necessary" for later years.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with the modification that administration fees authorized by this section to be charged and credited to a special fund established in the Treasury for State supplementary payment fees shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; such amounts shall be credited as a discretionary offset to discretionary spending to the extent they are made available for expenditure in appropriations Acts.

III. CHILD SUPPORT ENFORCEMENT

14. Clarification of Authority to Permit Certain Redisclosures of Wage and Claim Information

Current Law

P.L. 104-193 gives HHS the authority to obtain information about the wages and unemployment compensation paid to individuals from State unemployment compensation agencies for the State Directory of New Hires. The State Directory of New Hires is then to furnish this wage and unemployment compensation claim information, on a quarterly basis, to the National Directory of New Hires. The law also requires State unemployment compensation agencies to establish such safeguards as the Secretary of Labor determines are necessary to insure that the information disclosed to the National Directory of New Hires is used only for the purpose of administering programs under State plans approved under the Child Support Enforcement program, the TANF block grant, and for other purposes authorized in section 453 of the Social Security Act (as amended by P.L. 104-193).

House Bill

Clarifies that HHS may disclose wage and unemployment compensation information contained in the Directory of New Hires to the Department of Treasury, the Social Security Administration, and to State Child Support Enforcement agencies.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

IV. RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

15. Extension of SSI/Medicaid Eligibility Period for Refugees and Certain Other Qualified Aliens From 5 to 7 Years

Current Law

Provides 5-year exemption from: (1) the bar against SSI and Food Stamps; and (2) the provision allowing States to deny "qualified aliens" access to Medicaid, TANF, and Social Services Block Grant for refugees, asylees, and aliens granted withholding of deportation for persecution.

House Bill

Lengthens from 5 years to 7 years the period during which SSI and Medicaid eligibility is guaranteed to refugees, asylees, and aliens whose deportation has been withheld.

Senate Amendment

Similar to House, except also clarifies that Cuban-Haitian entrants would be considered "refugees."

Conference Agreement

The conference agreement follows the Senate amendment.

16. Definition: "Qualified Aliens"

Current Law

Defined by P.L. 104-193 (as amended by P.L. 104-208) as aliens admitted for legal permanent residence (i.e., immigrants), refugees, aliens paroled into the United States for at least 1 year, aliens granted asylum or related relief, and certain abused spouses and children. Most Cuban/Haitian entrants are paroled for 1 year and, as such, are "qualified aliens." Amerasians enter as immigrants and, as such, are qualified aliens.

House Bill

Specifies that Cuban and Haitian entrants and Amerasian permanent resident aliens are to be considered qualified aliens for purpose of continuing SSI and Medicaid eligibility of those who were receiving benefits on August 22, 1996.

Senate Amendment

Specifies Cuban and Haitian entrants are qualified aliens for purpose of continuing

SSI and Medicaid eligibility of those who were receiving benefits on August 22, 1996 (see below regarding treatment of Amerasians).

Conference Agreement

The conference agreement follows the Senate amendment.

17. SSI Eligibility for Noncitizens Receiving SSI on August 22, 1996

Current Law

Most "qualified aliens" are barred from Supplemental Security Income (SSI) for the Aged, Blind, and Disabled. Current recipients must be screened for continuing eligibility by September 30, 1997.

House Bill

"Qualified aliens" receiving SSI benefits on August 22, 1996 would remain eligible for SSI. Applies to both the aged and disabled.

Senate Amendment

Similar to House, but clarifies that ban does not apply to an alien who is "lawfully residing in any State."

Conference Agreement

The conference agreement follows the Senate amendment, with the modification that the ban does not apply to an alien who is "lawfully residing in the United States." The conference agreement clarifies that non-qualified aliens who are current SSI recipients would remain eligible for SSI and guaranteed Medicaid until October 1, 1998.

18. SSI Eligibility for Noncitizens Here by August 22, 1996 and Subsequently Disabled

Current Law

Not eligible under current law (unless otherwise exempt from ineligibility).

House Bill

No provision (thus eligibility continues beyond September 30, 1997 only for those receiving benefits as of August 22, 1996; see above).

Senate Amendment

Eligibility for SSI disability benefits provided for "qualified aliens" here by August 22, 1996 who subsequently become disabled.

Conference Agreement

The conference agreement follows the Senate amendment, with the modification that benefits are to be provided to aliens "lawfully residing in the United States" on August 22, 1996.

19. SSI Eligibility for the Severely Disabled

Current Law

No provision for eligibility of severely disabled "qualified aliens" beyond continued coverage through September 30, 1997 of those on rolls as of August 22, 1996.

House Bill

No special provision for the severely disabled. Eligibility of those on the rolls as of August 22, 1996 would continue (see above).

Senate Amendment

Provides for coverage of future severely disabled "qualified aliens" who are unable to naturalize solely because of their disability.

Conference Agreement

The conference agreement follows the House bill (no provision). However, qualified aliens present in the U.S. on August 22, 1996 who subsequently become disabled would be eligible for SSI (see item 18 above).

20. SSI Eligibility for SSI Recipients with Applications Filed Before January 1, 1979

Current Law

Not eligible under current law beyond September 30, 1997 unless can prove citizenship (or are otherwise exempt because of work record or veteran status).

House Bill

No provision.

Senate Amendment

Individuals who have been receiving SSI on basis of an application filed before January 1, 1979 would continue to be eligible unless there is convincing evidence that they are non-qualified aliens.

Conference Agreement

The conference agreement follows the Senate amendment.

21. Medicaid Eligibility for Noncitizens Receiving SSI on August 22, 1996

Current Law

States may exclude "qualified aliens" who entered the United States before enactment of the welfare law (August 22, 1996) from Medicaid beginning January 1, 1997. Additionally, to the extent that legal immigrants' receipt of Medicaid is based only on their eligibility for SSI, some will lose Medicaid because of their ineligibility for SSI.

House Bill

"Qualified aliens" who were receiving derivative Medicaid benefits on August 22, 1996 as a result of receipt of SSI would remain eligible for Medicaid.

Senate Amendment

Similar to House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

22. Food Stamp Eligibility

Current Law

"Qualified aliens" here before August 22, 1996 are barred from food stamps by August 22, 1997; new arrivals are barred from date of entry.

House Bill

No derivative eligibility from SSI eligibility; i.e., no change in existing law.

Senate Amendment

No derivative eligibility from SSI eligibility; i.e., no change in existing law.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

23. Medicaid Eligibility for Children

Current Law

"Qualified aliens" entering after August 22, 1996 are barred from all but emergency Medicaid for their first 5 years after entry, at which point their participation is a State option; no special provision is made for children.

House Bill

No change in existing law.

Senate Amendment

Exempts "qualified alien" children under age 19 entering after August 22, 1996 from the 5-year bar on full Medicaid.

Conference Agreement

The conference agreement follows the House bill (no provision).

24. SSI/Medicaid Eligibility for Permanent Resident Aliens Who Are Members of an Indian Tribe

Current Law

Makes no exception for qualified aliens who are Native Americans. Section 289 of the Immigration and Nationality Act of 1952 (INA) preserves the right of free passage recognized in the Jay Treaty of 1794 by allowing "American Indians born in Canada" unimpeded entry and residency rights if they "possess at least 50 per centum of blood of the American Indian race." By regulation, individuals who enter the U.S. and reside here under this provision are regarded as lawful permanent resident aliens.

House Bill

Excepts members of federally recognized American Indian tribes who are lawfully admitted for permanent residence from the SSI (and derivative Medicaid if applicable) restrictions on qualified aliens.

Senate Amendment

Excepts (1) members of federally recognized tribes and (2) American Indians who come under Sec. 289 of the INA from the SSI (and derivative Medicaid if applicable) restrictions on qualified aliens. Makes similar exceptions to the 5-year bar on benefits for newly arriving qualified aliens.

Conference Agreement

The conference agreement follows the Senate amendment, with clarifying amendments.

25. Amerasians

Current Law

Amerasians enter as immigrants and, as such, are qualified aliens.

House Bill

Considered to be "qualified aliens" for purpose of continued eligibility for SSI for those here by August 22, 1996.

Senate Amendment

Amerasians would be made eligible for benefits on same basis as refugees.

Provides for funding through $100 processing fees to be levied on unlawfully present aliens who are ordered removed after having been convicted in the U.S. of a felony.

Conference Agreement

The conference agreement follows the Senate amendment, with the modification that the funding provision is dropped.

26. Verification of Eligibility for State and Local Public Benefits

Current Law

Requires verification that applicants for federal benefits are eligible for the benefits, and that States administering such programs have a verification system.

House Bill

Authorizes State and local governments to verify eligibility for State or local public benefits.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

V. UNEMPLOYMENT COMPENSATION

27. Clarifying Provision Relating to Base Periods

Current Law

A "base period" is used to measure a claimant's covered wages for eligibility determination. Each State sets its base period, and most use the first 4 of the last 5 completed calendar quarters. A Federal court decision in Illinois (in the *Pennington* case) has ruled that the State's choice of base period does not ensure full payment of benefits when due as Federal law requires.

House Bill

A State's decision of which base period to use will not be considered a provision for a method of administration to which the "when due" clause of Federal law applies. This means States would have complete authority in setting base periods for determining eligibility for benefits.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

28. Increase in Federal Unemployment Account Ceiling

Current Law

The Federal Unemployment Account (FUA), a reserve account in the Unemployment Trust Fund, provides authority for loans to insolvent State benefit accounts in the trust fund. If FUA's assets exceed 0.25 percent of wages in covered employment, excess assets are transferred to certain other trust fund accounts, including State benefit accounts if Federal accounts are at their ceilings.

House Bill

The ceiling on FUA assets will be increased to 0.5 percent of wages in covered employment for Fiscal Year 2002 and subsequent years.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

29. Special Distribution to States from Unemployment Trust Fund

Current Law

80 percent of Federal unemployment tax revenue is credited to the Employment Security Administration Account (ESAA) of the Unemployment Trust Fund. Up to 95 percent of these funds may be appropriated annually for grants to States for program administration. The distribution of the appropriation among the States is determined by the U.S. Secretary of Labor based on each State's expected caseload and its agency's cost structure. At the end of each fiscal year, ESAA funds in excess of 40 percent of the prior year's appropriation are transferred to other accounts.

House Bill

ESAA funds up to $100 million that would otherwise be transferred to other accounts at the end of a fiscal year will instead be made available to each State in the same proportion as the State's share of funds appropriated for administration for that fiscal year. Excess ESAA funds greater than $100 million will be transferred to FUA without regard to that account's ceiling. This provision applies for Fiscal Year 1999, Fiscal Year 2000, and Fiscal Year 2001.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

30. Interest-free Advances to State Accounts in Unemployment Trust Fund Restricted to States Which Meet Funding Goals

Current Law

Each State decides how to fund benefit payments and the extent to which reserves are accumulated to meet future obligations. States that borrow Federal funds to pay benefits receive interest-bearing repayable loans.

House Bill

A "funding goal" is established as the average annual benefit payment during the 3-year period within the past 20 years when benefit payments were the largest. A State must meet this funding goal to be eligible for interest-free advances of Federal funds to its Unemployment Trust Fund benefit account.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with the modification that the Secretary is to establish appropriate funding goals for States.

31. Exemption of Service Performed by Election Workers from the Federal Unemployment Tax

Current Law

Federal law requires States to cover most jobs in State and local governments. Certain exceptions to coverage are allowed, but election workers are not identified as an excepted group.

House Bill

An election official or election worker could be excluded from coverage if the individual's calendar-year pay as an election official or election worker is less than $1,000.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

32. Treatment of Certain Services Performed by Inmates

Current Law

Although Federal law requires States to cover most jobs in State and local governments, an exception is allowed for services performed for a governmental agency by inmates of custodial or penal institutions. However, wages earned by inmates in private-sector jobs may still be covered under the broad coverage requirement that applies to private employment.

House Bill

The definition of private-sector employment subject to coverage would exclude service performed by an inmate of a penal institution. This exclusion would apply for service performed after March 26, 1996.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that the exclusion would apply for service performed after January 1, 1994.

33. Exemption of Service Performed for an Elementary or Secondary School Operated Primarily for Religious Purposes from the Federal Unemployment Tax

Current Law

Although States are required to cover most jobs in nonprofit organizations, an exception is allowed for employment subject to supervision or control by a church or association of churches.

House Bill

The exception for jobs under church control is broadened to include employment in an elementary or secondary school operated primarily for religious purposes (including religious schools operated by lay boards).

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

34. State Program Integrity Activities for Unemployment Compensation

Current Law

States receive Federal grants for program administration. While funds have sometimes been designated for certain activities, generally States have authority to use their grants as they choose for program administration.

House Bill

Appropriations for "program integrity activities" are authorized in the following amounts:

Fiscal Year 1998	$89 million
Fiscal Year 1999	$91 million
Fiscal Year 2000	$93 million
Fiscal Year 2001	$96 million
Fiscal Year 2002	$98 million

Program integrity activities are initial claims review, eligibility review, benefit payments control, and employer liability auditing activities.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

VI. TECHNICAL CORRECTIONS

NOTE: Provisions of the House-passed Technical Corrections Act (H.R. 1048) are identical to those of the Senate-passed Technical Corrections Act (Subtitle M of Title V of S. 947) except the items noted below.

35. Inadvertent References to Internal Revenue Code

Current Law

No provision.

House Bill

Strikes one paragraph (number 7) of Sec. 110(l) of P.L. 104-193, which made an inadvertent change in the Internal Revenue Code.

Senate Amendment

Strikes additional paragraphs (numbers 1, 4, and 5) which made inadvertent or obsolete changes in the Internal Revenue Code.

Conference Agreement

The conference agreement follows the Senate amendment.

36. Expenditures to Be Excluded from Historic State Expenditures

Current Law

No provision.

House Bill

Clarifies that State funds spent as a condition of receiving other Federal funds may not count toward the State maintenance of effort requirement; also makes a minor wording change to ensure that State spending on JOBS is included in the maintenance-of-effort baseline (historic State expenditures).

Senate Amendment

Makes this change in conforming amendments to the welfare-to-work block grant (see item 1 above). Language is the same as that in the Ways and Means welfare-to-work provision.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

37. Correction of References

Current Law

No provision.

House Bill

No provision.

Senate Amendment

Strikes "amendment made by section 2103 of the Personal Responsibility and Work Opportunity" and inserts "amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation."

Conference Agreement

The conference agreement follows the Senate amendment.

38. Technical Correction Pertaining to Social Security

Current Law

The two technical changes made in this section pertain to the definition of "qualified organization" that may serve as a representative payee, "final adjudication" as it applies to drug addicts and alcoholics, and cost-of-living increases as they apply to Social Security benefits.

House Bill

Makes minor changes in wording to improve clarity.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment with the modification that only the provisions of subtitle B of H. R. 1048 affecting title II of the Social Security Act are deleted.

The provisions of Public Law 104-121 denying Social Security and Supplemental Security Income disability benefits to drug addicts and alcoholics used identical language in pegging the effective dates to the "final adjudication" of an individual's claim. Those provisions warrant clarification, since at least one court has already reached conclusions

regarding their meaning that are contrary to the intent of Congress. The conference agreement includes language clarifying the effective date of the Supplemental Security Income provision only; it does not include parallel language clarifying the effective date of the Social Security provision due only to procedural considerations in the Senate regarding reconciliation bills.

39. Timing of Delivery of October 2000 SSI Benefit Payments

Current Law

Section 708 of the Social Security Act provides that benefits for a month are paid in the preceding month if the regular pay date falls on a Saturday, Sunday, or Federal holiday. Since the regular pay date for October 2000 (October 1) falls on a Sunday, the check for that month, under current law, would be delivered on Friday, September 29, 2000. As a result, 13 months of SSI benefits would be paid in FY 1999.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the technical modification that the date of delivery of SSI benefits in October 2000 will be October 2, 2000. It is the intention of conferees to return to this issue and work with the Social Security Administration to minimize any possible difficulties recipients might experience as a result of this change.

40. Clarification of the Contingency Fund

Current Law

States that have high unemployment (at least 6.5 percent and up 10 percent or more from the comparable period in at least one of the two preceding years) or a substantial increase in food stamp recipients (10 percent above same period of Fiscal Year 1994 or Fiscal Year 1995, assuming the new law had been in effect throughout Fiscal Year 1994) are entitled to matching grants out of a contingency fund, provided their State spending under the TANF program exceeds 100 percent of its 'historic' level.

Historic spending level is Fiscal Year 1994 State spending on AFDC, JOBS, Emergency Assistance, and AFDC-related child care. Monthly payments from the contingency fund cannot exceed 1/12th of 20 percent of the State TANF grant.

House Bill

The contingency fund operates in two stages: 1) States get an advance payment of 1/12th of 20 percent of their block grant every month that they meet the trigger and then for 1 month after they no longer meet the trigger; and 2) an annual reconciliation is performed in which States are required to remit money they did not deserve, usually because either they did not achieve the 100 percent maintenance of effort requirement or they financed more of the extra spending from contingency fund advances than they should have. The primary change is how the annual reconciliation is conducted. Generally, countable expenditures are subtracted from historic State expenditures to compute a new measure called reimbursable expenditures. Countable expenditures are defined as qualified State expenditures (as defined in the Act) under the TANF program (minus spending on child care) plus expenditures made by States from contingency fund monthly advances. Historic State expenditures are the same as under the Act except that spending on AFDC-related child care is not counted. The amount to which States are entitled under the contingency fund equals reimbursable expenditures times the State Medicaid match rate times the number of months in the year during which States were eligible divided by 12. This formula provides States with a Federal match on the amount of money they spent under the TANF program out of State funds that exceed the State's historic State expenditures prorated for the number of months during the year the State was eligible for contingency payments. This section also contains a slight modification of language to clarify that the Medicaid matching rate formula itself, and not the values for each State produced by the formula, is maintained as it existed on September 30, 1995.

The amendment retains the policy of only counting State expenditures made under the TANF program toward meeting contingency fund spending requirements. It would permit States to count only the portion of qualified State expenditures made under the TANF program, and hence under the rules that apply to State expenditures under TANF, toward meeting contingency fund maintenance of effort and matching requirements.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the identical provisions in the House bill and the Senate amendment.

VII. MISCELLANEOUS

41. Increase in the Public Debt Limit

Current Law

The current statutory limit on the public debt is $5.5 trillion.

House Bill

The statutory limit would be increased to $5.950 trillion. This is sufficient debt authority until December 15, 1999.

Senate Amendment

Same as House.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

42. Administration by Non-governmental Entity

Current Law

P.L. 104-193 allows States to "administer and provide services" under TANF, food stamps, and Medicaid through contracts with charitable, religious, or private organizations. However, basic provisions of food stamp and Medicaid law effectively require that eligibility be determined by a public official. Some elements of eligibility for the Special Supplemental Nutrition Program of Women, Infants, and Children (WIC) also must be determined by a public official.

House Bill

The House bill allows determinations of food stamp eligibility and Medicaid eligibility to be made by an entity that is not a State or local government, or by a person

who is not an employee of a State or local government, that meets qualifications set by the State. The House bill provides that for purposes of any Federal law, these eligibility determinations shall be considered to be made by the State and by a State agency. The House bill stipulates that these provisions shall not be construed to affect eligibility conditions, the rights to challenge eligibility determinations or benefit rights, and determinations regarding quality control or error rates.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment (no provision).

43. Earned Income Credit Mandatory Appropriation

Current Law

No provision.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement specifies that, out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Internal Revenue Service for Earned Income Credit enforcement, in addition to other amounts for this purpose, the following amounts: $138 million in FY 1998, $143 million in FY 1999, $144 million in FY 2000, $145 million in FY 2001, and $146 million in FY 2002.

WR- WR-to-work legislation

"(II) EXCEPTIONS.—Subclause (I) shall not be construed to affect any right of an individual under any other Federal anti-discrimination law or under the Fair Labor Standards Act of 1938.

SECTION 5004 →

"(III) Work experience or community service program defined.—As used in subclause (I), the term 'work experience or community experience program' means a program which—

"(aa) is designed to provide experience or training for individuals not able to obtain employment in order to assist them to move to regular employment;

"(bb) is designed to improve the employability of participants through actual work experience to enable individuals participating in the program to move promptly into regular public or private employment;

"(cc) does not place individuals in private, for-profit entities; and

"(dd) is limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care, and other purposes identified by the State.".

(2) CONFORMING AMENDMENT.—Section 409(a)(7)(B)(iv) of such Act (42 U.S.C. 609(a)(7)(B)(iv)) is amended to read as follows:

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditure from amounts made available by the Federal Government;

July 28, 1997
8PM

25% Cap on WE/CS Under WTW Grant

[Both options below assume that clause (I), expressly permitting work experience and community service as allowable activities, will remain.]

Option #1:

Page 13, line 19, before the period - Insert the following:

> ", except that no recipient shall be assigned to any such program for more than 180 days."

Option #2:

Page 13, line 24, after the period - Insert the following new sentence:

> "Of the funds provided to any entity under this paragraph in any fiscal year, not more than 25 percent shall be expended for purposes of subclause (I)."

gender discrim. provision in WTW

and

associated remedy (which we would add)

} both apply to TANF

who's us?

You're living great!

Rim — Two ways to do the gender discrimination piece. Elena faxed to Elena, 6PM

1. *Page 20, line 34*: Strike "paragraph" and insert "part."
Page 21, between lines 25 and 26: Insert following new subclause (dd) -
"(dd) in the case of a violation of clause (iii), the remedies available under Title VI of the the Civil Rights Act of 1964;"
Page 21, line 26: Redesignate "(dd)" as "(ee)."

This option buries a cause of action for all TANF participants in the part of the bill relating only to the welfare-to-work grants. As a result, it may be confusing to some. It is attractive because it changes the fewest number of words in the existing draft. However, Option #2 below is a cleaner, less confusing approach.

2. *On page 31, between lines 31 and 32, add the following new section.*

Sec. 5005. PROHIBITION ON GENDER DISCRIMINATION. -- Section 408(c) of the Social Security Act is amended by --

(1) insert by the heading "(1) IN GENERAL." before "The following";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C) and (D), respectively;

(3) adding the following new paragraph at the end:

"(2) GENDER DISCRIMINATION

"(A) IN GENERAL - In addition to the protections provided under paragraph (1), an individual may not be discriminated against by reason of gender with respect to participation in work actitivities engaged in under a program funded under this part.

"(B) ENFORCEMENT - A participant alleging a violation of subparagraph (A) shall have an opportunity to file a grievance under the procedures established by the State under section 403 (a)(5)(I)(iv). The remedies available for a violation of sub-paragraph (A) under such procedure shall include the remedies available under title VI of the Civil Rights Act of 1964."

WR - WR-to-work legislation

7/24/97 BR debrief of conv w/ Levin

- Noncits — hold out
- Ag/formula — DOL formula 75 / HHS-comp. 25 — ok
- SSI MOE — hard line
- Pennington — Byrd
- Voc Ed / Title XX — } comp if need to. Not end of world. → e.g. 30% of those req'd work plus teens
- Privatization — hard line — small substitute demo ← (talk w/ Podesta)
- FLSA — EITC/FICA fallback
  - sell it if
    - welfare dropped as/any all work are >
    - progress on displacement — across-the-board grievance
  - subsidized public sector job too?

WR - WR-to-work bill Legislative

Spending Reconciliation Bill

Administration Issues: Based on Discussions of July 23

July 24, 1997

Spectrum Subconference

1. Bankruptcy Language
2. Universal Service Fund -- Spending Shift
3. Public Safety

Welfare Subconference

1. Noncitizens — DISAGREED - WIN GRANDFATHER ELDERLY FOR ALL WE CAN AFFORD.
2. Welfare to Work Administration (HHS vs. DOL)
3. Welfare to Work Formula (90-10) — DISPLACEMENT ACROSS-THE-BOARD
4. Worker Protection/Fair Labor Standards Act — FICA/RETM/EITC
5. SSI State Supplement Maintenance of Effort (MOE) — NEED TO WIN.
6. Pennington Unemployment Court Case — BOYD ABLE
7. Privatization welfare administration — SUBSTATE DEMO?
8. Minor Issue: Education to Work & Title XX transfer

Medicare Subconference

1. MSA Program (Participant Limit and Deductible)
2. Private Fee for Service
3. Provider Private Contracting
4. Home Health Transfer
5. Income Conditioned Premium
6. Medicare Commission
7. GME-DSH Carve Out
8. DSH Reductions
9. Office of Competition
10. Copay for Mammography
11. Medigap guarantee for Disabled
12. Competitive Bidding and Inherent Reasonableness Authority
13. Hospital Transferability

Medicaid Subconference

1. Allocation of DSH reductions
2. Targeting of DSH funds
3. Hyde Amendments
4. Special State Fixes
5. Low Income Medicare Beneficiary Block Grant

Prepared by the SBC Majority Staff.

WR – WR-to-wk legislation

RECONCILIATION POSITIONS: HUMAN RESOURCES

Welfare to Work

Distribution of Funds
Program Administration - Federal
Fair Labor Standards Act/Minimum Wage
TANF Transfers to Title XX
Vocational Education Counted as Work Under TANF Work Requirements
Welfare to Work Nondisplacement and Grievance Procedure
Performance Bonus
WTW Program Administration - State and Local
Sanctions (Nickles Amendment)

Uses of Funds - Workfare [not on 7/23 document]

Immigrants

Immigrant Eligibility for SSI and Medicaid
Summary of Benefit for Immigrants Scoring
Action Before Recess to Ensure October 1 SSI Benefits for Legal Immigrants [not on 7/23 document]

Welfare Privatization

Other Issues

SSI State Supplements
SSI User Fee
UI Integrity
Pennington

Other Issues not on 7/23 document

Delay of October 2000 SSI Payment
Cost Allocation

WELFARE TO WORK
DISTRIBUTION OF FUNDS

CONFERENCE PROVISIONS

- The Conference proposal contains a 90/10 formula/competitive split.

  -- 90% formula funds are distributed to States on the basis of poverty levels and TANF caseloads; include a small-State minimum of 0.25%; are distributed within States based on poverty levels, long-term TANF caseloads (optional), and unemployment (optional); and presume TANF agencies will administer but give the Governor an option for PICs or other agencies to administer.

  -- 10% competitive funds are available to PICs and other political subdivisions of a State; provide no set-asides for rural areas or poor cities; and provide no role for non-profit entities, including community development corporations.

ADMINISTRATION POSITION

- The Administration opposes the Conference proposal because it does not give cities and mayors sufficient authority to administer the program. The Administration favors the Ways and Means provisions which included a 50/50 split and gave PICs responsibility for administering the program --targeting resources more effectively to cities.

PROBLEMS WITH CONFERENCE PROVISION

- Does not adequately place resources in the hands of mayors to administer the program (allows Governor to decide if TANF agency or other agency is to run the program).

FALLBACK POSITION

- Ways and Means bill: 50/50 split with 65% of competitive funds targeted to the poorest cities and PICs responsible for program administration.

- Existing 90/10 split with the strong focus on cities by making PICs responsible for program administration (mayors are comfortable with this formulation).

WELFARE TO WORK
PROGRAM ADMINISTRATION - FEDERAL

CONFERENCE PROVISIONS

- HHS

ADMINISTRATION POSITION

- DOL

PROBLEMS WITH CONFERENCE PROVISION

- DOL JTPA job training system already in place nationwide, guided by business-led Private Industry Councils (PICs). HHS has no such infrastructure or local business and industry ties.

FALLBACK POSITION

- DOL, consulting with HHS and HUD on competitive grants (as in both House provisions).

- Split responsibility -- one agency administers the competitive grants, the other the formula grants. (A rumored Republican offer that never materialized.)

WELFARE TO WORK
FLSA/MINIMUM WAGE

CONFERENCE PROVISIONS

- Participants engaged in work experience and community service programs (workfare) are not considered to be receiving compensation for work performed and are not entitled to a salary or work or training expenses. Thus, no coverage of FLSA or other workplace laws.

ADMINISTRATION POSITION

- Opposed.

PROBLEMS WITH CONFERENCE PROVISION

- Modifies current law with respect to applying the minimum wage and worker protections to working welfare recipients. Working welfare recipients should be treated like other workers with regard to employment status. The FLSA and other employment laws not would apply contrary to DOL's May guidelines.

FALLBACK POSITION

- 1. Strike sections 5004 and 5005.

  2. Treat as employees for all purposes except for FICA, FUTA, and EITC.

  3. Same as above, but apply the House maximum hours (minimum wage) provisions. All other employment laws continue to apply. An enforcement mechanism for the maximum hours (minimum wage) may be needed.

TANF TRANSFERS TO TITLE XX

CONFERENCE PROVISIONS

- The welfare reform bill allowed States to transfer up to 10% of their TANF block grant amounts to the Title XX Social Services Block Grant, but included language requiring transfers to Title XX to be made in proportion to other State transfers from TANF to the child care block grant (i.e., in order to transfer one dollar to Title XX, States must also transfer two dollars to child care). The Conference Agreement would make it easier for States to divert TANF funds away from welfare-to-work efforts to other Title XX social service activities by removing the requirement that transfers to Title XX be made in proportion to transfers to child care.

ADMINISTRATION POSITION

- The Administration opposes this provision in the Conference bill and urges the Conferees to drop it from consideration. (In the welfare reform debate, the Administration opposed transfers to Title XX.)

PROBLEMS WITH CONFERENCE PROVISION

- This provision would allow States to use funds on people who are not as disadvantaged as TANF recipients, and could allow States to more easily weaken the effective TANF MOE requirements.

FALLBACK POSITION

- None. Continue to oppose.

VOCATIONAL EDUCATION IN TANF

CONFERENCE PROVISIONS

- The welfare reform bill placed a 20% cap on the number of individuals who could meet the TANF work participation rates through participation in vocational education activities or, for teen parents, attendance in secondary school. The language is vague, however, and can be interpreted as applying the 20% cap to the entire caseload (a very broad base) rather than to those required to work (a narrower base). The Conference Agreement adopts the narrower base against which the cap on vocational education applies, and raises the cap to 25%. The Agreement does not exempt teen parents from the cap.

ADMINISTRATION POSITION

- Drop the provision.

PROBLEMS WITH CONFERENCE PROVISION

- The Administration has urged dropping this provision because it does not want to reopen TANF and does not want to appear to weaken the work requirements.

FALLBACK POSITION

- Exclude teen parents from the cap. (If teen parents are not exempt from the cap, they alone could fill the vocational education slots under the work requirement in the early years of TANF.)

WELFARE TO WORK
NONDISPLACEMENT AND GRIEVANCE PROCEDURE

CONFERENCE PROVISIONS

- Nondisplacement. Participants in welfare to work activities and TANF may fill a vacant employment position in order to engage in a work activity, except when another individual is on layoff from the same or substantially equivalent job or if the employer has caused an involuntary reduction in the workforce with the intention of filling the vacancy with the participant.

  Grievance Procedure. States must establish grievance procedures for employees alleging nondisplacement violations, and for TANF and welfare to work participants who allege violation of provisions regarding nondisplacement, health and safety standards or gender discrimination. The procedure must include an opportunity for a hearing. States may continue sanctions during grievance procedure.

ADMINISTRATION POSITION

- Nondisplacement. Senate provision which in addition to the conference provisions prohibits 1) displacement that reduces wages, hours, or benefits, or 2) impairs promotional opportunities for current employees. Apply to welfare to work and TANF.

  Grievance Procedure. A procedure with deadlines for hearings (as in Senate), and an appeal process to a neutral, non-Federal third party.

PROBLEMS WITH CONFERENCE PROVISION

- Nondisplacement. No prohibition or reduction of hours could allow substituting lower cost welfare to work participants for current employees.

  Grievance Procedure. No deadlines so grievance procedure could be abused. Need for a 3rd party review.

FALLBACK POSITION

- Nondisplacment. Top priority is language prohibiting reducing hours, wages, or benefits (see Senate). Promotional impairment is second order.

  Grievance. Right to appeal an adverse decision or if a decision not issued in 60 days (see Senate). Appeal to a State agency selected by the Governor (e.g. State Labor Department, the State's EEO agency) or to an impartial tribunal already in place (e.g. those that hear appeals for claims under State UI laws).

WELFARE TO WORK
PERFORMANCE BONUS

CONFERENCE PROVISIONS

- $100 million of FY 1999 funds reserved to be awarded in FY 2001. Allocated by formula based on job placement, retention, and earnings increases; formula negotiated with NGA and APWA. (This is a modification and improvement of the Senate provision.)

ADMINISTRATION POSITION

- Require Governors to: 1) use at least ½ of their 15% State setaside of formula funds and 2) require the Secretary to reserve up to 7.5% of competitive funds for bonuses. Bonuses to top 20% of service delivery areas in a State tied to placement in long term unsubsidized employment. Totals $225 million.

PROBLEMS WITH CONFERENCE PROVISION

- Bonus amount ($100 million) is small. While success is tied to duration of placement and earnings, no guarantee that reward will be for long term placements or only for the top performers.

FALLBACK POSITION

- Conference acceptable if amended to increase the bonus amount, limit it to the top performers, ensure that measures for judging are tied to long-term unsubsidized employment (9-months).

Draft: July 11, 1997

Performance Bonuses Amendment

Governors' performance bonus awards

In section 403(a)(5)(A) of the Social Security Act [as proposed to be added by section 9001/5001], strike subparagraph (A) (vi) (III) and insert the following:

"(III) RESERVATION OF FUNDS FOR PERFORMANCE BONUSES AND SPECIAL PROJECTS.– The Governor of a State shall reserve not more than 15 percent of the total amount allotted to the State under subparagraph (A) (iii) in each fiscal year (plus any amount required to be distributed under this subclause by reason of subclause (II)) for performance bonuses under subclause (IV) and for special projects under subclause (V).

"(IV) PERFORMANCE BONUSES FOR MOVING INDIVIDUALS INTO UNSUBSIDIZED JOBS.-

"(aa) IN GENERAL.– Of the amounts reserved by the Governor under subclause (III), not less than 50 percent in each fiscal year shall be reserved for awarding performance bonuses to service delivery areas in fiscal years 1999, 2000, and 2001. The performance criteria shall be based on the performance of such areas, attributable to the use of funds under this paragraph, in moving required beneficiaries into unsubsidized employment lasting at least 9 months, and may also include earnings of the required beneficiaries. Such criteria shall take into account the economic circumstances of each area. A service delivery area receiving a performance grant may use the funds made available pursuant to such grant to carry out any of the allowable activities authorized under subparagraph (C)(i).

"(bb) HIGHEST PERFORMING AREAS. – Performance awards under this subclause shall be made to the highest performing 20 percent of the service delivery areas in the State. The amounts awarded shall reflect the relative success of service delivery areas in meeting or exceeding the performance criteria. In States with 4 or fewer service delivery areas, the highest performing area shall be awarded the bonus funds. No service delivery area receiving a bonus award shall be subject to any requirement that such area match the funds awarded under this subclause.

"(V) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE ENTER THE WORKFORCE.– Of the amount reserved by the Governor under subclause (III), not more than 50 percent of the total amount may be used for projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the workforce.

Secretary's performance bonus awards for competitive grant activities

In section 403(a)(5)(B) of the Social Security Act [as proposed to be added by section 9001(a)] redesignate clauses (iv) and (v) as clauses (v) and (vi), respectively, and insert after clause (iii) the following:

"(iv) PERFORMANCE BONUSES.--

"(I) Of the amounts available under clause (vi), the Secretary shall reserve not more than 7.5 percent in each fiscal year to award performance bonuses to grantees under this subparagraph in fiscal years 1999, 2000, and 2001.

"(II) AWARD CRITERIA.-- The Secretary shall award funds available under subclause (I) to grantees under this subparagraph that meet or exceed performance criteria identified by the Secretary for moving required beneficiaries into unsubsidized employment lasting at least 9 months. Such criteria may include factors such as the earnings of the required beneficiaries and the economic circumstances of the areas served by the grantees.

State plan provision for performance goals.

In the House-passed bill [Committee Print HR 2015 EH], page 717, on line 20, strike "and"; and between lines 20 and 21, insert the following new subclause (and redesignate the succeeding subparagraph accordingly):

"(dd) set forth performance goals for moving recipients participating in activities funded under this paragraph into unsubsidized employment lasting not less than 9 months; and

WELFARE TO WORK
PROGRAM ADMINISTRATION - STATE/LOCAL

CONFERENCE PROVISIONS

- State TANF Agency. Formula grants administered by State TANF agency (or another designated by the Governor); competitive grants by PICs or political subdivisions which apply and are approved by the TANF agency.

ADMINISTRATION POSITION

- The PICs for an SDA have sole authority to expend funds, either formula or competitive.

PROBLEMS WITH CONFERENCE PROVISION

- PICs and SDAs are part of a nationwide job training system with ties to the business/industry community. They are in the best position to train and place the target group for available jobs in the private sector. The TANF agencies have no such infrastructure or ties to the business community.

FALLBACK POSITION

- A combination of House provisions. The PICs for an SDA have sole authority for formula grants after consulting with local elected officials (E & W provision); PICs and political subdivisions eligible for competitive grants after consultation with State TANF agency (W & M provision).

- Same as above except that formula grant consultation is with State TANF agency (W & M provision).

WELFARE TO WORK
SANCTIONS (NICKLES AMENDMENT)

CONFERENCE PROVISIONS

- Notwithstanding minimum wage requirements, States retain the ability to sanction a family for noncompliance with program rules.

ADMINISTRATION POSITION

- Opposes as drafted.

PROBLEMS WITH CONFERENCE PROVISION

- Without a commensurate reduction in hours worked, provision would result in the sanctioned individual being compensated at less than the equivalent of the State or Federal minimum wage. Nevertheless, opposing a sanction for non-performance weakens the work incentive. Administration is exploring alternative formulations.

FALLBACK POSITION

- 1. State can sanction but recipients must receive minimum wage. [FLSA permits recipients who are not employees of States to voluntarily agree to deductions of sanctions, as in paragraph 2. Preserves current law.]

  2. Sanction that cuts into the minimum wage may be done through fines, with a choice of options for payment, including voluntary deductions from pay.

  3. Sanction (the equivalent of garnishment or a deduction) must be after TANF procedures conducted. Procedures may not be before the agency employing participant.

  4. State can sanction through fines (as in paragraph 2) with protections for requirement that TANF procedures not be before the agency employing participant.

WELFARE TO WORK:
WORKFARE/COMMUNITY WORK EXPERIENCE AS "ALLOWABLE USES"

CONFERENCE PROVISIONS

- Per the July 21 "Conference Status" document, under "Uses of Funds", an authority is added, to the effect that "States can spend funds on community service and work experience programs." This authority makes clear that workfare is an allowable activity. NOTE: "Uses of Funds" is not on the July 23 "Balanced Budget Act of 1997" document.

ADMINISTRATION POSITION

- Opposed. The Administration notes that authority in both bills for "job creation through public or private wage subsidies" is sufficiently broad that Governors and Mayors could "likely" use these funds for costs of administering workfare programs.

PROBLEMS WITH CONFERENCE PROVISION

- The Conference position could lead to excessive use of funds for workfare (already unconstrained under TANF), at the expense of strategies more likely to help individuals move into lasting unsubsidized employment. Workfare can be a useful strategy for some individuals, but only if connected to a plan for ultimate placement in unsubsidized work.

- Hill Democrats are especially concerned about this.

FALLBACK POSITION

- This additional language would substantially mitigate the potential negative effects of the Conference position:

  1. Add to the requirements for applicant (State, Mayor, competitive) plan:

     "The plan shall set forth performance goals for moving recipients participating in activities funded under this [program] into unsubsidized employment lasting at least 9 months."

  2. Modify the "Allowable Activities" introductory paragraph to read as follows:

     "ALLOWABLE ACTIVITIES. -- An entity to which funds are provided under this paragraph *shall* [may] use the funds to move into *lasting unsubsidized employment* [the workforce] recipients of assistance under *the Welfare to Work program* [the program funded under this part of the State in which the entity is located] and the noncustodial parent of any minor who is such a recipient, by means of any of the following:"

IMMIGRANT BENEFIT RESTORATION

CONFERENCE PROVISIONS

- Contrary to the agreement, the Conference Agreement retains the House's grandfathering policy for all persons on SSI rolls instead of the disabled exemption for all in country prior to August 23, 1996. Conference does include the budget agreement's refugee and asylee policy extending the exemption from 5 to 7 years.

ADMINISTRATION POSITION

- On June 20, the President wrote Reps. Kasich and Spratt regarding the absence of a full disability exemption: "it is essential that the legislation presented to me include these provisions. I will be unable to sign the legislation that does not." He also expressed strong interest in assisting both disabled and elderly, "...if budgetary resources permit, my clear preference would be to assist both disabled and elderly legal immigrants..."

PROBLEMS WITH CONFERENCE PROVISION

- The Conference Agreement fails to fully restore SSI and Medicaid benefits for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996.

- It does not include Senate provisions that would restore Medicaid coverage for future immigrant children. The Senate's original intent was to exempt children from both the 5 year ban and deeming. It also does not provide SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize. In a July 2 letter, the Director said the Administration would support these provisions if resources are available. These two provisions cost $300 million over 5 years.

FALLBACK POSITION

- The Administration could 1) agree to the Conference decision not to include the Senate exemption for those too disabled to naturalize and 2) propose that the Medicaid for immigrant children policy be at a State's option (the State option policy was in an earlier Senate offer). The State option would need to exempt children from both the ban and deeming.

SUMMARY OF BENEFITS FOR IMMIGRANTS SCORING

5 Year Costs in Billions

	Total	Difference from Agreement
Budget Agreement	9.7	
House --Full Grandfathering (with refugee/asylee policy)	9.0	-0.7
Senate --Full grandfather & refugee/asylee plus 1) disability exemption 2) State option to exempt future immigrant children from the 5-year ban on Medicaid (see note 1) 3) Provide SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize (see note 2) Total	11.7	+2.0
Budget Agreement and Full Grandfathering	11.4	+1.7
<u>Partial Grandfather options starting in FY 1996:</u>		
Budget Agreement and 1 year grandfather	10.1	+0.4
Budget Agreement with 18 month grandfather	10.3	+0.6
Budget Agreement and 2 year grandfather	10.5	+0.8

Note 1: The Senate Children's policy was in the President's budget but not in the budget agreement. The $0.25 billion estimate assumes that immigrant children will be exempted from the five year ban <u>and</u> deeming requirements. The Senate language, however, only exempts children from the five year ban.

Note 2: Costs $41 million over 5 years. Most of the costs of this provision appear after FY 2002 since this provision helps immigrants who have entered after August 23, 1996 and immigrants are generally not eligible to naturalize during their first five years.

ACTION BEFORE RECESS TO ENSURE OCTOBER 1 SSI BENEFITS FOR LEGAL IMMIGRANTS

CONFERENCE PROVISIONS

- Immigrants currently receiving benefits retain eligibility.

ADMINISTRATION POSITION

- Support

PROBLEMS WITH CONFERENCE PROVISION

- If reconciliation is not completed before the August recess, by September 5 SSA would be required to notify legal immigrants now receiving SSI benefits and eligible to receive benefits under the Conference agreement that their payments could be interrupted. If reconciliation is not resolved by September 19th, October 1st benefits could not be provided.

- The Disaster Supplemental extended eligibility for SSI benefits from August 1997 to the end of September 1997 for those legal immigrants currently on the rolls. Under current law, as many as 500,000 individuals would not be eligible for SSI benefit payments dated October 1, 1997. Action before the August recess is needed because of the logistics of: (a) when notices of benefit termination must be sent and (b) when the system can be programmed to reverse the instruction to terminate benefits and still have payments sent dated October 1st.

FALLBACK POSITION

- If completion of reconciliation is unlikely before the August recess, legislation should be proposed to extend benefits for legal immigrants currently on the rolls through October 31, 1997. CBO estimated the cost of the one-month extension in the Disaster Supplemental bill for SSI and Medicaid at $240 million for one month's worth of benefit payments. We would expect the cost of the recommended extension would be about the same. SSA has discussed the issue with House majority staff, who expressed a willingness to seek a solution.

  Language attached.

EXTENSION OF SSI REDETERMINATION PROVISIONS

SEC. _____. (a) Section 402(a)(2)(D)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D)(I)) is amended --

(1) in subclause (I), by striking "September 30,1997," and inserting "October 31, 1997,"; and

(2) in subclause (III), by striking "September 30,1997," and inserting "October 31, 1997,".

(b) The amendment made by subsection (a) shall be effective as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

PRIVATIZATION

CONFERENCE PROVISION

- Allows privatization of State [redacted] Food Stamps, and Medicaid functions nationwide. To circumvent the Byrd rule, requires Federal payments of $5 million to States that choose to privatize.

ADMINISTRATION POSITION

- The Administration strongly opposes the provision.

PROBLEMS WITH CONFERENCE PROVISIONS

- The Administration believes that changes to current law would not be in the best interest of program beneficiaries.

- The cost of the $5 million payment to States takes funding away from other priorities.

POSSIBLE FALLBACK OPTIONS

- None. Continue to oppose.

SSI STATE SUPPLEMENTS MAINTENANCE-OF-EFFORT REQUIREMENT

CONFERENCE PROVISION

- The Conference Agreement eliminates "maintenance of effort" requirement that prevents states from lowering or eliminating State supplemental SSI payments. We understand that the Conferees are also considering language that would limit the reduction of State supplements to 10% per year for States whose benefit payments are Federally administered, with no such limitation on states that administer their supplements.

ADMINISTRATION POSITION

- Strongly opposes.

PROBLEMS WITH CONFERENCE PROVISION

- The repeal of the MOE would let States significantly cut, or even eliminate, benefits to nearly 2.8 million poor elderly, disabled, and blind persons. Some states could be expected to reduce state supplementary payments simultaneously with increases in the Federal SSI COLA. About 380,000 individuals nationwide receive SSI state supplementary payments, but no Federal SSI benefits. For these individuals, a reduction in the SSI state supplementary payments may result in loss of Medicaid eligibility because of the loss of SSI eligibility.

- Most of the individuals who could be affected live below the poverty line; they would be pushed deeper into poverty if these state SSI supplementary benefits are reduced. 60% of those receiving SSI state supplementary payments are women and 37% are over age 65.

- A similar provision was removed from last year's welfare reform bill via the Byrd Rule. The Congressional Record clearly shows that the Byrd Rule decision was based upon the budget effects being merely incidental. Consequently even if CBO decides the provision has small budget effects, it should still be subject to the Byrd Rule.

FALLBACK POSITION

- We recommend no fall back position.
- Uniform limitation on the reductions (e.g. no more than a 5% one-time reduction for all states whether or not Federally administered) could be a compromise position.

SSI USER FEE

CONFERENCE PROVISIONS

- The tentative Conference Agreement includes language to authorize an increase to the fee States pay when they enter into agreements to have SSA administer State supplemental payments (i.e., State payments that are supplemental to the Federal SSI payment). The language makes the funds from the increase in the fee available to SSA for administrative expenses, subject to appropriations action.

ADMINISTRATION POSITION

- The Administration supports action in the reconciliation/appropriations process that will provide for (1) permanent authorization of an increase to existing fees to offset SSA-related spending and (2) an appropriation for FY 1998 from these fees for SSA administrative expenses.

PROBLEMS WITH CONFERENCE PROVISION

- The Senate Labor/HHS/Ed appropriations subcommittee and the House appropriations committee have both included authorizing language in their appropriations bills. Both the reconciliation bill and the appropriations bill now give credit for the revenue. With no change in the reconciliation bill language, the appropriations committees may balk at providing the funding if they are ultimately scored for the spending and not credited for the revenue.

FALLBACK POSITION

There are two alternatives.

(1) A language change in the reconciliation bill, which would direct the scoring to give credit for the revenue to the appropriations bill rather than the reconciliation bill. Language follows:

The amounts of the administration fees authorized by this section to be charged and credited to a special fund established in the Treasury of the United States for state supplementary payment fees shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; such amounts shall be credited as a discretionary offset to discretionary spending to the extent they are made available for expenditure in appropriations Acts. not getting credit for the revenue.

(2) Strip the authorization language from the reconciliation bill and include both the permanent authorization and the appropriation in the appropriations bill.

UNEMPLOYMENT INSURANCE INTEGRITY

CONFERENCE PROVISIONS

- The Conference Agreement includes a provision to authorize discretionary spending on unemployment insurance (UI) integrity activities in 1998-2002, which will yield mandatory outlay savings. The Conference Agreement lacks any budget process reforms that would assure that the appropriators provide the funds authorized.

ADMINISTRATION POSITION

- Supports the authorization of UI integrity spending, but seeks additional budget process reforms to assure that the appropriators provide the discretionary funds necessary to achieve the mandatory savings.

PROBLEMS WITH CONFERENCE PROVISION

- The Conference provision merely authorizes additional discretionary spending; the Agreement lacks any mechanism to assure that the appropriators provide the necessary funds. At this time, the House appropriations committee and the Senate appropriations subcommittee have not provided the funds to achieve these savings. Thus, the $763 million in mandatory outlay savings over five years that were assumed in the Budget Agreement will not be achieved. The Administration has sought budget process reforms for 1998-2002 to provide the necessary incentive to the appropriators. The President's Budget had proposed an increase in the discretionary caps to accommodate this spending. Later, the Administration proposed a budget process reform to create a UI integrity reserve fund that would "fence off" the funds authorized for UI integrity and make them unavailable for other purposes.

FALLBACK POSITION

- Delay the budget process reforms to take effect in 1999-2002. This would provide the appropriators another year to come up with the necessary funds. However, this delay would reduce the expected five-year savings to $598 million as well as making a small reduction in the savings for 2002.

- Drop our request for budget process reforms for UI integrity.

PENNINGTON PROVISION

CONFERENCE PROVISIONS

- The Conference Agreement includes a provision that clarifies that a State has authority over what base period to use in establishing eligibility for unemployment benefits. This is often referred to as the "Pennington provision" because it overturns the court decision in Pennington v. Doherty that required Illinois to create an alternative base period to expand the number of individuals eligible for unemployment benefits..

ADMINISTRATION POSITION

- The Administration has been neutral on this provision.

PROBLEMS WITH CONFERENCE PROVISION

- This provision had been dropped from the Senate reconciliation bill as a Byrd rule violation. While CBO believes that this provision would reduce the deficit, CBO does not show scorable savings for this provision because its baseline was set before Illinois' appeal of the initial court decision was decided. According to DOL, organized labor objects to this provision and would like the Administration to remain at least neutral if it does not specifically object.

FALLBACK POSITION

- On a programmatic basis, this provision is not objectionable. Continue neutrality.

DELAY OF OCTOBER 2000 SSI PAYMENT

CONFERENCE PROVISIONS

- We understand there is an effort to include language to delay the Supplemental Security Income payment for the month of October 2000, which by law would be made on September 29, 2000, in order to have twelve months worth of outlays in both FY 2000 and FY 2001, instead of 13 months in 2000 and 11 months in 2001.

ADMINISTRATION POSITION

- Oppose.

PROBLEMS WITH CONFERENCE PROVISION

- Delaying SSI payments beyond the current statutory date would cause undue hardship to millions of SSI recipients, as well as alarm (despite whatever notices SSA might send) about whether their checks had been lost, misdirected, or stolen. Receipt of payments would be effectively delayed by at least three days (from Friday, September 29 to Monday, October 2).

FALLBACK POSITION

- Include language that directs CBO and OMB to score the outlays for the October 2000 SSI payments as if they occurred in October 2000. Payments would be made on September 29, 2000.

Rough draft language:

Outlays for benefits payments under title XVI of the Social Security Act for October 2000 shall be scored under the Balanced Budget and Emergency Deficit Control Act of 1985 by the Congressional Budget Office and the Office of Management and Budget as though the delivery date were the second day of such month, without regard to the actual delivery date.

WELFARE ADMINISTRATIVE COST ALLOCATION

CONFERENCE PROVISIONS

- No provision.

- Under current law, States may take action to increase Federal costs dramatically by changing their welfare cost allocation plans to shift State administrative costs from the capped TANF grant to matched, open-ended funding streams in Food Stamps and Medicaid. Proposals were introduced but not adopted in the Senate Finance and House Agriculture Committees to limit the extent of such cost shifting. The Finance Committee proposal would save $3.3 billion over five years and $650 million in 2002.

ADMINISTRATION POSITION

- The Administration supports a statutory change that would maintain TANF as the "primary program" for cost allocation purposes and limit the degree of cost shifting from TANF to other programs, thereby saving $3.3 billion against CBO's baseline.

PROBLEMS WITH CONFERENCE PROVISION

- No provision.

FALLBACK POSITION

- Language similar to the Chafee/Rockefeller proposal to lock in current cost allocation plans (see attached).

Rockefeller/Chafee Amendment on Cost Allocation with HHS Edits
(deletions in strikeout, additions in bold)

Section 408(a) of the Social Security Act (42, U.S.C. 608 (a)) is amended by adding at the end the following:

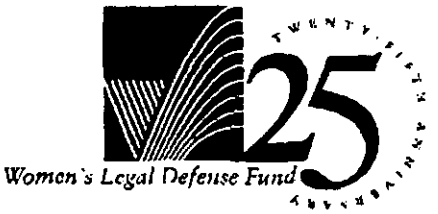
"(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS. Notwithstanding any other provision of law or regulation, the state shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving households eligible or applying for benefits under the state program funded under this part and any other Federal means tested benefits. The Secretary shall issue regulations to require that such administrative costs be allocated **to the program funded under this part** ~~in the same manner as such costs were allocated by State agencies which had designated Part A of the Title IV (42 U.S.C. 601 et seq.) as the primary program for the purpose of allocating administrative costs prior to August 22, 1996.~~"

Section 409(a) of the Social Security Act(42, U.S.C. 609 (a)) is amended by adding at the end the following:

"(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.--If the Secretary determines that the state has not allocated administrative costs in accordance with section 408(a)(12), the Secretary shall reduce the grant payable to the state under section 403(a)(1) for a fiscal year by the amount of administrative expenses that the state allocated to the program funded under this part in the preceding year less than the amount the Secretary determines should have been allocated to the program funded under this part."

WR-HR-to-mail by Natie

Bruce/Cynthia/Diana



FACSIMILE

To: Elena Kagan, Deputy Assistant to the President for Domestic Policy

From: Judith L. Lichtman, President, Women's Legal Defense Fund

Re: Conference Agreement on Human Resources and Health Issues

Date: July 25, 1997

Fax #: 456-2878 # of Pages (incl. cover): 8

I'm sure you find the information in these memoranda as disturbing as I did. I will be calling you shortly to follow up.

Please call 202/986-2600 if transmission is incomplete.

1875 Connecticut Ave., NW ■ Suite 710 ■ Washington, DC 20009 ■ Telephone (202) 986-2600 ■ Fax (202) 986-2539

To: Interested Parties
From: Joan Entmacher and Jocelyn Frye
Re: Preliminary analysis of the 7/21/97 conference spending agreement
Date: July 23, 1997

House and Senate conferees have come up with a spending bill that takes extremely harsh positions on a range of human services issues. If left unchanged, these positions could have devastating consequences for the most vulnerable women and families.

How does the conference spending bill compromise both economic security and access to fair treatment for low-income women and families? Among its most extreme provisions, the bill:

- Denies Basic Protections to Workers in Workfare Jobs --The conference bill adopts the House language, which says that payments to participants in community service and work experience programs are not compensation for work. This will make it harder for welfare recipients to be considered employees, even if they do the same work as employees. As a result, they could be denied the minimum wage and other basic worker protections.

  In fact, the bill is even harsher than the House position because it includes a provision, similar to one proposed by the Senate, that says that sanctions imposed on a family for failure to comply with a welfare requirement are not reductions in wages. This would apply to individuals in any work activity, including private employment. Participants could be required to work, but receive substantially less than the minimum wage, or nothing at all, for significant periods of time, in clear violation of the Fair Labor Standards Act's (FLSA) principles. Under the welfare law, states are free to impose sanctions of any size or duration for failure to comply with any program requirement, including those unrelated to work.[1] This is particularly disturbing because a GAO study found that nearly half of the sanctions for noncompliance were erroneous.[2]

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[1] For example, in Virginia, non-compliance with a provision of the personal responsibility agreement results in a 100 percent reduction of the household's AFDC benefit for a fixed period of time, or until the individual complies, whichever is *longer*. The first violation results in at least a one month suspension of the entire grant; the second violation, a three month suspension; a third violation, a six-month suspension. In Montana, noncompliance with the Family Investment Agreement results in the loss of the adult's portion of cash assistance for one month for the first noncompliance, 3 months for the second, 6 months for the third, and 12 months for the fourth.

[2] A recent study by the General Accounting Office found that in Milwaukee County, Wisconsin, nearly half (44 percent) of the 5,182 sanctions issued were later reversed because recipients had met program requirements or inaccurate data had been corrected. In Massachusetts, nearly half (47 percent) of the 978 sanctions appealed by recipients were decided, at least in part, in their favor. In Iowa, the state terminated benefits for alleged noncompliance with work requirements when no community service positions were available. GAO, *Welfare Reform: States' Early*

- Weakens Protections Against Sex Discrimination -- The bill may actually weaken existing protections against sex discrimination in employment. The provision in the House bill addressing gender discrimination, which the conferees adopted, provides meaningless remedies. But its existence, along with the denial of employee status, might make it harder for welfare recipients to claim the protection of other laws that prohibit sexual harassment and other sex discrimination.

- Restricts access to vocational education and training -- At a time when access to education for all Americans is a national priority, women struggling to gain the basic skills to support their families will find their already limited access to education and training reduced even further. The welfare law passed last year places an overall cap of 20% on the number of individuals in a state's welfare caseload who can count towards the state's work participation requirements by either by obtaining vocational education and training or by being single a teen parent completing high school. The conferees would limit educational activities even more. Instead of 20% of the total caseload, only 25% of those considered to be engaged in work-related activities could participate in vocational education and have it count toward the work requirement. Thus, in FY 1998, 25% of the caseload will be required to be in work activities, and only 25% of them -- or 6.25% of the total caseload -- could participate in vocational education and training. This 6.25% would have to include all teen welfare recipients who are in school, as the law requires. In many states, this cap would effectively limit educational opportunities to teens only. In a few states, including Alabama, Illinois, Lousiana, Ohio, Texas, and Virginia, there would not even be enough education-related slots to allow all teens to participate. In California, only 651 adults would be able to participate in work programs to meet the work requirement.[3]

  This is a harsher provision than the Senate or even the House Ways and Means Committee proposed. The Senate Finance Committee would have expanded access to vocational education by leaving the cap at 20% of the entire caseload *excluding* teen parents. The House Ways and Means Committee would have allowed 30% of those participating in work activities to receive vocational education, excluding teens.

- Weakens protections against displacement -- The bill adopts the weaker House version of anti-displacement provisions. It doesn't protect current employees from partial displacement by workfare participants. Women, who already dominate the low-wage labor market, cannot afford to have their hours, wages and benefits cut in the name of welfare reform.

- Drops protection for victims of domestic violence -- The conferees dropped a Senate provision that would have given states the flexibility they need to implement the Family Violence Option (FVO). The Senate bill made it clear that if states waive work requirements for victims of domestic violence under FVO, the waivers would not count against the state's

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Experiences with Benefit Termination (May, 1997).

[3] In FY95, there were 724,567 AFDC cases in California. The total number that could participate in vocational education under the 6.25% cap would be 45,285. In FY95, there were 44, 634 teen parent case heads in California; if all were in school, only 651 vocational education slots would remain for adults to be counted toward meeting work requirements.

20% cap on hardship exceptions and would not be included in determining compliance with the work participation rates.

- Adds a penalty against states that fail to penalize families where adults refuse to work -- Adopted a House provision (the Senate was silent) that requires the Secretary to cut state funding by 1 to 5 percent if it fails to reduce a recipient's grant for refusing to work. In the absence of effective protections for recipients who work, and with the history of erroneous sanctions, this creates an even greater risk that women will be forced to work under substandard conditions and/or work without adequate or safe child care, or lose vital benefits for their families.

- Allows states to delay paying the unemployment compensation earned by low-wage and contingent workers, most of whom are women,[4] for up to six months. Adopts the seemingly technical "clarifying provision relating to base periods" (the "*Pennington* override") that was in the House, but not the Senate, bill. This would allow states to ignore a person's most recent earnings information when calculating her eligibility for unemployment benefits. States would be able to delay paying unemployment benefits -- that workers have already earned -- for up to six months. Most working women can't afford to wait that long, and some may have to turn to welfare to keep their families afloat.

- Allows states to reduce or eliminate state SSI benefits, pushing millions of elderly and disabled women deeper into poverty. Sixty percent of the elderly and disabled poor are women who depend on a combination of state and federal SSI benefits for their survival. Federal SSI benefits provide an income just 73 percent of the poverty level. Thanks to a maintenance of effort provision in current SSI law, millions of elderly and disabled Americans in more than 40 states receive supplementary state SSI benefits that help raise their income closer to the poverty line. Accepting a provision in the House (but not the Senate) bill, conferees would repeal this maintenance of effort requirement, allowing states to stop paying supplementary benefits. Nearly two million elderly and disabled women would be pushed deeper into poverty.

- Cuts back on benefits for immigrants, including the elderly, disabled and children -- The budget resolution, and the Senate bill, provided that noncitizens who were living in the US on 8/22/96, but who subsequently became disabled, could qualify for SSI. Conferees adopted House provision, that would allow only those receiving SSI benefits on 8/22/96 to continue to receive benefits. Conferees dropped the Senate provision that would allow qualified aliens who were too disabled to naturalize to get SSI; and they dropped the Senate provision that would have allowed the children of legal immigrants who enter after 8/22/96 to qualify for Medicaid.

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[4] Women constitute a majority of workers in low-wage, temporary, and part-time jobs, and many women moving from welfare to work will find that these are the only jobs available. When they are between jobs, unemployment compensation should -- but usually does not -- provide protection for them and their families. Only 33 percent of unemployed workers receive unemployment benefits, and women are more than twice as likely as men to be denied unemployment compensation for failure to meet the prior earnings requirements.

WR – WR-to-work legislation

Bruce/Cynthia/Diana.
FYI. See my question on p. 2
Elena.

NATIONAL GOVERNORS' ASSOCIATION

NATIONAL CONFERENCE OF STATE LEGISLATURES

July 11, 1997

Dear Conferee:

As you work to resolve the differences between the House and Senate budget reconciliation bills, we are writing to share the views of the National Governors' Association (NGA) and the National Conference of State Legislatures (NCSL) on several issues related to welfare. We believe that these issues are important to the successful implementation of welfare reform.

Welfare-to-Work Grant. We are deeply troubled by the lack of consistency between the proposed Welfare-to-Work Grant and the implementation of welfare reform occurring in states. We urge you to support fundamental changes so that the funds can be used in the most effective and coordinated manner to support job placement, creation and retention for long-term welfare recipients. If current proposals are enacted and these funds are micromanaged and largely bypass the states, Congress will have missed a valuable opportunity to strengthen job possibilities for welfare recipients. We believe that modifications must be made to allow for flexibility in allocation and administration of these funds consistent with state welfare efforts.

For maximum efficiency, these funds must be administered closely with the new Temporary Assistance for Needy Families (TANF) work programs. This can only be accomplished if the preponderance of the funds are allocated to the states and complement our welfare reform initiatives. States then should have the ability to determine eligibility and direct funds to both rural and urban areas with the greatest needs.

We strongly oppose the federal government mandating the administrative structure the state must employ to direct and use these new funds. States must have the ability to designate the delivery system. In some states this may involve the workforce development system, in others it may be through the social services system. States should determine which delivery system is best. Both proposed House versions would permit states to channel these funds only to the Private Industry Councils (PICs). This may not be the appropriate structure in all states for serving low-skilled, long-term welfare clients.

We also oppose the House provision that would require an 80 percent maintenance-of-effort (MOE). For some states, the cost of increasing state expenditures to the 80 percent level will exceed the total amount of funds that they could receive under the new grant. Finally, NGA and NCSL are currently working with Department of Health and Human Services (HHS) on the criteria for the High Performance Bonus Fund in TANF; there is no need to dilute the limited welfare-to-work funds with a duplicative program.

Transfer of TANF funds. We strongly endorse a technical correction in the House bill that allows states to directly transfer up to 10 percent of a state's TANF grant into the Title XX Social Services Block Grant. This change corrects language in the Personal Responsibility and Work Opportunity Act that unintentionally required that a state transfer TANF dollars into the child care fund in order to transfer TANF dollars into Title XX.

Vocational education training. We strongly urge the deletion of provisions in the House reconciliation bill that would further restrict the number of adults in vocational educational activities or teen parents in school that could count toward meeting the work participation rate. The welfare law, as enacted, already limits participation in these activities to 20 percent of a state's TANF caseload. Most states have already adopted their welfare reform initiatives and have made decisions about the availability of these services based on this provision in the law.

The House Education and Workforce provision would limit this to 20 percent of those counting toward the work requirement. In FY 1997, in virtually every state this would be completely filled by teen parents who are mandated under the law to complete their high school education in order to receive benefits. This means that no adults in vocational education would count toward the work rate. The Ways and Means provision is slightly less restrictive, but this provision still imposes a significant limitation compared to current law. The welfare reform law, while emphasizing work, does give states flexibility to offer vocational educational training when appropriate to some individuals for a limited period. Further restrictions now, in mid-stream, would place states at risk of financial penalties and greatly limit the state flexibility and discretion that we believe is essential to successful state implementation of the TANF program.

What are these?

Penalties. We strongly oppose and urge you to strike the provision in the Senate bill that restricts the Secretary's authority to determine appropriate penalties in the event a state fails to meet the work participation rate requirement. Under the Senate provision, the Secretary would have to impose the same penalty on a state that missed meeting the participation rate by just a few points as a state that failed to meet the rate by a wide margin. We believe the Secretary should have the authority to take into account a wide variety of circumstances that may affect a state's ability to meet the work rate and set penalties accordingly, as is currently permitted under the welfare law.

We also ask that conferees strike the provision in the House bill that would impose a new penalty on states that fail to reduce assistance for recipients who refuse to work. While states are implementing the sanction provision, we are concerned that the data collection and reporting that is necessary to verify state compliance would create an excessive administrative burden and new cost. We urge Congress to focus on positive program outcomes and delete these penalty provisions.

SSI state supplement. We support the provision in the House bill that would permit states to set their own state supplement levels for SSI payments. Even though states' entrance into this program was optional, current law locks states into continuing these supplemental benefits paid for with state-only dollars or risk severe penalties. We believe that states should have the flexibility to adjust payment levels given changing needs and budget demands. We urge you to reject the proposal to raise administrative fees charged to states by the federal government for administering this mandatory SSI state supplement.

Welfare reform technical corrections. We appreciate that the Senate bill incorporated most of the House-passed welfare reform technical corrections bill, HR 1048. We believe the goals of welfare reform will be furthered by many of the changes included in HR 1048 and trust that the final reconciliation bill will include the technical corrections.

We look forward to working with you on these provisions. If you or your staff need further information, please contact Susan Golonka at NGA (202) 624-5967 or Sheri Steisel at NCSL (202) 624-8693.

Sincerely,

Governor John Engler
Co-lead Governor on Welfare

Michael Box
House Chairman, Alabama
President, NCSL

Governor Tom Carper
Co-lead Governor on Welfare

Richard Finan
President of the Senate, Ohio
President-Elect, NCSL

WR- WR-to-work legislation

Employment & Training Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
tel: 202/219-6050
fax: 202/219-6827

fax transmittal

for: Elena Kagan

fax #: 456-2878

from: Geri Palast + Ray Uhalde

date: July 28, 1997

re: Welfare-to-work changes

pages ~~6~~ 5 **(including this cover sheet)**

NOTES: The additional page is a ~~redraft~~ re-working of the Nickles language.

July 28, 1997 (2:00pm)

CHANGES TO COMMITTEE PRINT: F:\JDG\RECON97\ALT.008
(Dated July 27, 1997)

1. Agreements between State TANF agency and PICs

Page 5, line 32, after "part" insert "or another agency designated by the Governor".

2. Deleting State election not to use PICs

Page 10, strike line 15 through 23; and page 6, strike lines 1 through 4.

3. Deleting community service and work experience as specified allowable activity

Page 13, strike lines 17 through 19.

4. Extending regulation authority to Indian tribal welfare-to-work paragraph

Page 16, on line 25, before the period insert "and section 412(a)(3)".

5. Applying worker protections to TANF as well as Welfare-to-Work Grants

Page 19, on line 26, before the period insert a closing quotation mark; and strike line 27 and insert the following:
(2) Section 407(f) (42 U.S.C. 607(f) is amended to read as follows:
"(f)(1) WORKER PROTECTIONS. --

6. Appeal of grievances

Page 21, between lines 9 and 10, insert the following:

> **"(III) APPEAL.-- If a grievant receives an adverse decision under the procedure established under subclause (I), or if 60 days have elapsed after the hearing described in subclause (II) is completed and no decision has been issued, the grievant shall have an opportunity to file an appeal with an entity designated by the State (such as an agency, board, or commission) that is independent of the State agency administering the program under thus part and is independent of the State agency administering the procedure described in subclause (I). The designated entity shall make a final determination relating to an appeal not later than 120 days after receiving the appeal."**

Page 21 line 10, redesignate subclause "(III)" as subclause "(IV)".

7. Non-discrimination

Page 20, on line 32, after "gender" insert "or religion".

8. Nickles amendment

Page 29, strike lines 8 through 25.

9. Sec. 5003 participation requirements

Strike all that appears from page 30, line 19, through page 31, line 4.

10. Non-preemption

Page 21, after line 28, insert the following clause:

"(v) This subparagraph shall not be construed to affect any right of an individual under any other Federal, State, or local law relating to nondisplacement, health and safety, or nondiscrimination.

11. Partial displacement

Page 20, on line 19, strike the period and insert "; or"; and after line 19, insert the following:

"(cc) if the employer reduces the hours of nonovertime work, wages, or employment benefits of any currently employed worker in the same or any substantially equivalent job; or

12. Infringement of promotional opportunities

Page 20, before line 20, insert the following:

"(dd) if the job would be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

13. Clarifying cross-reference on workers' compensation

Page 20, on line 26, strike "clause" and insert "paragraph".

14. State option to count certain work activities of recipients in work experience or community service

Page 31, strike lines 12 through 27, and insert the following:

(3) STATE OPTION TO TAKE ACCOUNT OF CERTAIN WORK ACTIVITIES OF RECIPIENTS IN WORK EXPERIENCE OR COMMUNITY SERVICE. - Notwithstanding paragraphs (1) and (2) of this subsection and subsection (d)(8), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), an individual who has participated in any work activities for the number of hours required by subsection (c)(1) for the month shall be treated as engaged in work for the month, if the individual has participated in a work experience or community service program for at least the number of hours that results from the sum of the amount of assistance provided to the individual, to the extent that such assistance is paid as wages for work performed during the month, plus the dollar equivalent value of any benefit treated as compensation under the food stamp program under the Food Stamp Act of 1977, minus any amount collected by the State and not paid to the family as child support with respect to the family, divided by the greater of the Federal or applicable State minimum wage.

On p. 29:

a) change title of subsection (h) (lines 8-10) to read:

MANNER OF IMPOSITION OF SANCTIONS AGAINST RECIPIENTS.

b) amend lines 16-21 to read as follows:

"(c) MANNER OF IMPOSTION OF SANCTIONS AGAINST RECIPIENTS. - Any penalty against an individual imposed under a State program funded under this part for failure to comply with a requirement under such program is to be imposed in a manner consistent with an employer's obligation to pay such individual at least the federal minimum wage for each hour worked. Nothing shall prevent the imposition of such penalties in the form of a fine levied against the individual, which the individual may satisfy by choosing among different payment options offered by the entity imposing the fine. Such payment options may include voluntary deduction from the individual's pay only when the entity imposing the fine is not the individual's employer."

WR- WR-to-work legislation

July 28, 1997

TO: ELENA KAGAN

FROM: EMIL PARKER

SUBJECT: Outstanding issues in latest welfare draft

Technical issues

1. Subclause (II) on pages 19-20 is oddly written; if a work activity cannot violate a collective bargaining agreement, how can a labor organization agree to an activity that would do so?

2. Lines 31-32 on page 25 refer to "any wage subsidy provided to the family member." The language in the previous version of the legislation which referred to "any wage subsidy provided from Federal or State funds" seems preferable, given that wage subsidies are generally paid to the employer rather than the family member. Any reason why the language was changed? Perhaps "provided to or on behalf of the family member would work."

3. Lines 35-36 on page 25 now refer only to terminations due to employment, yet elsewhere in the subclause terminations due to engaging in other work activities or training are discussed. This also represents a change from previous language which did not suffer from this problem.

4. On page 44, Amerasians need to be added to 402(b)(2)(A)(i) [Medicaid] as well as (ii) [TANF and SSBG].

Non-technical issues

1. Worker protections now limited to only the new WTW program.

2. Workers compensation coverage is still not provided to participants doing work similar to other employees who have such coverage.

3. Nondisplacement language still does not include protection against partial displacement.

4. Exempting legal immigrant children from the five-year ban on Medicaid (in Senate bill, not in draft).

5. Restoring benefits for new entrants too disabled to naturalize (in Senate bill, not in draft).

Wp - Wp-to-work legislation

TO: ELENA KAGAN

Fax 456-2878

FROM: MARK MOREN / SETH HARRIS

Cover plus 2 pages

faxed to Elena, 6PM

1. *Page 20, line 34*: Strike "paragraph" and insert "part."
Page 21, between lines 25 and 26: Insert following new subclause (dd) -
"(dd) in the case of a violation of clause (iii), the remedies available under Title VI of the the Civil Rights Act of 1964;"
Page 21, line 26: Redesignate "(dd)" as "(ee)."

This option buries a cause of action for all TANF participants in the part of the bill relating only to the welfare-to-work grants. As a result, it may be confusing to some. It is attractive because it changes the fewest number of words in the existing draft. However, Option #2 below is a cleaner, less confusing approach.

2. *On page 31, between lines 31 and 32, add the following new section.*

Sec. 5005. PROHIBITION ON GENDER DISCRIMINATION. -- Section 408(c) of the Social Security Act is amended by --

(1) insert by the heading "(1) IN GENERAL." before "The following";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C) and (D), respectively;

(3) adding the following new paragraph at the end:

"(2) GENDER DISCRIMINATION

"(A) IN GENERAL - In addition to the protections provided under paragraph (1), an individual may not be discriminated against by reason of gender with respect to participation in work actitivities engaged in under a program funded under this part.

"(B) ENFORCEMENT - A participant alleging a violation of subparagraph (A) shall have an opportunity to file a grievance under the procedures established by the State under section 403 (a)(5)(I)(iv). The remedies available for a violation of sub-paragraph (A) under such procedure shall include the remedies available under title VI of the Civil Rights Act of 1964."

[ALTERNATIVE ENFORCEMENT PROVISION]

"(B) ENFORCEMENT - A participant alleging a violation of subparagraph (A) shall have an opportunity to file a complaint under the procedures established under title VI of the Civil Rights of of 1964. The remedies available for violation of subparagraph (A) shall be the remedies available under title VI of the Civil Rights Act of 1964."; and

[UNDER EITHER ALTERNATIVE THE FOLLOWING REDESIGNATION IS APPROPRIATE]

On page 31, line 32, redesignate section 5005 as section 5006.

July 29, 1997 (3:30 pm)

CHANGES IN COMMITTEE PRINT: F:\JDG\RECON97\ALT.010
(Dated July 28, 1997)

Authority of Secretary of Labor to approve use of alternate agency

Page 10, on line 29, strike "shall" and insert "is authorized to".

(Technical correction re the definition of the Secretary as Secretary of HHS)
Page 10, between lines 26 and 27 in the handwritten matter, strike "the Secretary's" and insert "such Secretary's"; and on line 32, strike "the Secretary" and insert "such Secretary".

Participation in educational activities

Page 31, on line 31, strike "For"; and between lines 31 and 32, insert the following:
"(i) IN GENERAL.-- For

Page 31, on line 34, strike "25 percent" and insert "30 percent".

Page 32, strike all that appears from the comma on line 2 through the closing quotation mark before the period on line 8.

Page 32, strike lines 5 through 8 and insert in lieu thereof the following new clause:

"(ii) SPECIAL RULE FOR FY 2001 AND BEYOND.-- In fiscal year 2001 and thereafter, the limitation described in clause (i) shall apply with respect to individuals deemed to be engaged in work by reason of subpargraph (C) of this paragraph, in addition to individuals deemed to be engaged in work by reason of participation in vocational educational training.".

Non-preemption of Federal, State, and local laws

Option 1

Page 23, on line 14, strike "STATE" and insert "FEDERAL, STATE, OR LOCAL", and on line 16, strike "State" and insert "Federal, State, or local".

Option 2

Page 23, on line 20, strike the closing quotation mark and the period following such mark; and between lines 20 and 21, insert the following new clause:

"(vii) NONPREEMPTION OF FEDERAL LAWS.-- The provisions of this subparagraph shall not be construed to affect the rights of an individual under any other Federal law.".