

1 EXECUTIVE COMMITTEE MEETING TO CONSIDER THE PERSONAL  
2 RESPONSIBILITY AND INDIVIDUAL DEVELOPMENT FOR EVERYONE  
3 ACT; NOMINATION OF HAROLD DAMELIN TO BE INSPECTOR  
4 GENERAL, DEPARTMENT OF THE TREASURY; AND NOMINATION OF  
5 RAYMOND WAGNER, TO BE MEMBER OF THE INTERNAL REVENUE  
6 SERVICE OVERSIGHT BOARD  
7 WEDNESDAY, MARCH 9, 2005  
8 U.S. Senate,  
9 Committee on Finance,  
10 Washington, DC.

11 The meeting was convened, pursuant to notice, at  
12 10:17 a.m., in room 628, Dirksen Senate Office building,  
13 Hon. Charles E. Grassley (chairman of the committee)  
14 presiding.

15 Also present: Senators Hatch, Lott, Snowe, Kyl,  
16 Thomas, Santorum, Smith, Bunning, Baucus, Rockefeller,  
17 Bingaman, Lincoln, and Wyden.

18 Also present: Kolan Davis, Republican Staff Director  
19 and Chief Counsel; Russ Sullivan, Democratic Chief Tax  
20 Counsel; Carla Martin, Chief Clerk; and Gina Sherick,  
21 Staff Assistant.

22 Also present: George Yin, Staff Director, Joint  
23 Committee on Taxation; Dr. Wade Horn, Assistant  
24 Secretary, Health and Human Services; Rebecca Shipp and  
25 Kate Kahan, Policy Advisors; Sheila Dacey, Congressional

**"UNCORRECTED"**

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, CHAIRMAN,  
2 COMMITTEE ON FINANCE

3

4 The Chairman. I think we have eight or nine people  
5 here, and we can start with seven. I have been informed  
6 by my staff that it is all right with Senator Baucus that  
7 I move ahead. When he comes, we will defer to him for  
8 opening statements. So, thanks, everybody. Our goal  
9 would be to hopefully get done today before votes. I  
10 think around 11:30, votes are called.

11 This meeting is to look at the mark-up of the  
12 Personal Responsibility and Individual Development for  
13 Everyone bill. This is a reauthorization of the 1996  
14 Welfare Reform bill.

15 Here is Senator Baucus. I just said you said I could  
16 start without you.

17 Senator Baucus. Absolutely.

18 The Chairman. I am very pleased that this is a  
19 proposal that is supported by me and my colleague Senator  
20 Baucus. During the 107th Congress, when Senator Baucus  
21 was chairman, I was unable to support his bill at that  
22 time that was referred to as the acronym "WORK".

23 During the 108th Congress, when I was chairman,  
24 Senator Baucus was unable to support the first version of  
25 the bill that we have with the title of the same bill

1 this Congress.

2 I believe that the inability of Senator Baucus and I  
3 to come to an agreement on these policies over the span  
4 of these two Congresses is the reason why we have not  
5 been able to enact a meaningful welfare reform  
6 reauthorization.

7 I have often said that nothing happens in the Senate  
8 unless it is bipartisan, and this is particularly true of  
9 the Senate Finance Committee. The Senate Finance  
10 Committee, however, has a long history of bipartisanship.  
11 Senator Baucus and I have a long history of working  
12 together on a number of important issues.

13 As I remarked during the mark-up of this bill in the  
14 108th Congress, there were more similarities than  
15 differences between Senator Baucus' bill of the previous  
16 Congress and my bill of the last Congress.

17 So, I am pleased that we were able to work through a  
18 number of outstanding differences and come to an  
19 agreement that we can both support. Senator Baucus and  
20 his very able and dedicated staff have both worked hard  
21 in good faith with me and the staff of the Finance  
22 Committee in crafting this proposal.

23 We have both compromised to get to this agreement. I  
24 have compromised on extending the types of activities  
25 that can count towards the work requirement; Senator

1 Baucus has compromised on issues of Federal funding for  
2 healthy marriage promotion activities. That is how we  
3 get things done in this committee, we compromise and move  
4 the process forward.

5 It is important that we move forward on the issue of  
6 welfare reform. For too many years, States have operated  
7 their welfare programs under a cloud of uncertainty.  
8 Child care funding has remained static.

9 Because of the way the caseload reduction credit has  
10 functioned, most States have no effective work  
11 participation requirements and not as many people moving  
12 from welfare to work, and consequently not moving up the  
13 economic ladder.

14 It is important that we give States some clear  
15 direction, that we improve State flexibility, and that we  
16 strengthen work and promote healthy families.

17 I believe that the legislation we will mark up today  
18 represents many improvements over current law. One set  
19 of improvements include an increase in the mandatory  
20 child care funding, additional funding for Title 20, the  
21 Social Services block grant, and mandatory funding for  
22 the fatherhood programs.

23 I want to commend Senator Santorum for his continued  
24 leadership on the issue of welfare reform and for his  
25 support of the \$1 billion increase in mandatory child

1 care money, his support for increased funding for the  
2 Social Services block grant, and his support for funding  
3 of the fatherhood programs.

4 Getting to a bipartisan compromise on a mandatory  
5 child care increase has been a difficult hurdle for many  
6 years. This morning, I will place before the committee a  
7 modification to the Chairman's mark that represents what  
8 I believe is a reasonable compromise on the level of  
9 child care funding.

10 This proposed compromise includes a total of \$6  
11 billion for child care, and it also includes the \$1  
12 billion in additional funding for the Social Services  
13 block grant, and mandatory funding for fatherhood  
14 programs. In addition, this additional spending, as a  
15 compromise added to the chairman's mark, is fully offset.

16 Some will no doubt feel that the additional child  
17 care funding included in the modification to the  
18 Chairman's mark is too high, and I appreciate that  
19 position. However, the Senate is on record as voting to  
20 increase child care spending, a total of \$7 billion over  
21 five years, with \$6 billion paid for by extending custom  
22 user's fees.

23 Last year, the amendment offered by Senators Snowe,  
24 Dodd and Hatch passed the Senate by a vote of 78 to 20.  
25 The majority of the members on both the Republican and

1 Democratic side voted for that amendment.

2 For members who are concerned about the increased  
3 level of spending, I say, if we had waited until we  
4 considered this bill on the Senate floor, I think it is  
5 fairly certain that we would see amendments to increase  
6 this funding even much higher than \$6 billion.

7 There are those members who do not think \$6 billion  
8 is enough for child care. For those of us who have been  
9 working on this issue for more years than we can  
10 remember, we recall that \$11.25 billion had been  
11 considered as insufficient.

12 For those members, I would urge you to not let the  
13 perfect be the enemy of the good. What we have in the  
14 proposed compromise is a real opportunity to  
15 substantially increase child care funding, and members  
16 who care about this issue ought to hopefully accept that.

17 I believe that the figure Senator Baucus and I have  
18 agreed to include in the modification of the Chairman's  
19 mark represents a reasonable attempt to find common  
20 ground, and this is why. There has been no increase in  
21 federal child care funding since 2002. The original  
22 welfare bill provided for regulatory mandatory increases  
23 in child care funding.

24 Because we have been unable to reauthorize the 1996  
25 welfare bill, child care funding has remained static at

1 those 2002 levels, yet child care costs have risen over  
2 time. The Congressional Budget Office estimates that  
3 \$4.8 billion is needed over five years to maintain the  
4 current level of participation.

5 I believe that it is reasonable to accommodate the  
6 rising cost of living and inflation. Just as we  
7 routinely get cost of living increases, so do child care  
8 providers.

9 Additionally, I believe that while the legislation we  
10 will consider today makes significant improvements to the  
11 current work requirements, these improvements are not  
12 without cost.

13 The Congressional Budget Office estimates that the  
14 additional child care costs associated with States  
15 meeting the increased work requirements of our bill total  
16 \$924 million over five years.

17 Therefore, in order to provide for the increased cost  
18 to cover inflation, as well as to pay for child care  
19 costs of the new work requirements, we would need to  
20 increase child care spending \$5.7 billion over five  
21 years.

22 The modifications to the manager's amendment includes  
23 a little more than that, but not much more.  
24 Additionally, we pay for this increase by closing  
25 loopholes in the Earned Income Tax Credit program, and



1 other loopholes.

2 As I have said, we are attempting to strike a balance  
3 between those who would prefer a much more substantial  
4 increase in child care and those who would prefer no  
5 increase.

6 It is always a challenge to stake out common ground,  
7 especially on such a tough issue. But I think we have  
8 come with reasonable compromises, and responsible ones as  
9 well, and I would urge colleagues on both sides to  
10 support it.

11 Before I close, I would also like to recognize the  
12 work done by a number of key members of the Senate  
13 Finance Committee: Senators Santorum, Hatch, Rockefeller,  
14 Snowe, Lincoln, and Jeffords have all contributed to a  
15 number of important provisions in the legislation we are  
16 considering, and I appreciate their long history of  
17 working in a bipartisan way on this issue.

18 We are also indebted to a former colleague, Senator  
19 Breaux, for his leadership in helping through the  
20 tripartisan proposal of the 107th Congress, on which a  
21 number of key provisions of our bill is still based.

22 I have some additional remarks that I would include  
23 in the record.

24 [The prepared statement of Senator Grassley appears  
25 in the appendix.]

1           The Chairman.    Now it is Senator Baucus' turn to  
2 speak.  
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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM  
2 MONTANA

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4 Senator Baucus. Thank you, Mr. Chairman.

5 I might say, it is kind of interesting. I just  
6 returned from another mark-up. It is clear skies. The  
7 juxtaposition and the contrast is striking. In this  
8 committee, under your leadership, we are working toward  
9 compromise, we are getting things done.

10 Regrettably, in the last mark-up I just attended,  
11 there is not in the committee sufficient effort to work  
12 towards compromise, and therefore nothing is getting  
13 done. The bill is not going to pass. We just are at  
14 loggerheads.

15 It is deeds, not words. We all talk about  
16 bipartisanship. Mr. Chairman, I compliment you because  
17 you actually do it. You do not just talk about it, you  
18 do it. The results show. We are here to mark up a bill  
19 where there has been tremendous compromise, and we are  
20 getting a lot done.

21 There will be some amendments on the floor, clearly,  
22 but still here in the committee we are getting a lot  
23 done. I just thank you again for your leadership in  
24 helping to make that happen.

25 The Chairman. Thank you.

1           Senator Baucus. I might also remark that after nine  
2 extensions of the current law, today's mark-up brings us,  
3 I think, a whole step closer to full reauthorization of  
4 the 1996 welfare program.

5           I was a strong supporter, back in 1996, of welfare  
6 reform. Looking back, I am very glad that I did.  
7 Hundreds of thousands of people have left welfare for  
8 work. The welfare caseloads have fallen by more than 50  
9 percent since 1996. Clearly, we have got a lot more to  
10 do.

11           Most importantly, to make a lasting difference we  
12 need to help welfare recipients to work. That is the  
13 goal here, is work. It is getting people, finding jobs,  
14 getting them into work. That is why we need to, in my  
15 judgment, provide good, strong, healthy child care  
16 assistance. That is why we need to provide transitional  
17 health care.

18           We also need to focus on the hardest cases, families  
19 who face more difficult challenges: children with  
20 disabilities, adults with mental illness or substance  
21 abuse issues, or those with little or no education. For  
22 the most part, I believe this bill does that.

23           I especially appreciate Senator Snowe's amendment to  
24 add an additional \$5 billion in child care funding, and I  
25 am happy that that has been accepted as part of the mark

1 here. Child care, clearly, is a pivotal issue given the  
2 increase in work hours in our bill.

3 I am also pleased that the Smith-Jeffords amendment  
4 to focus on rehabilitation services for hard-to-serve  
5 cases has been accepted in this bill. This flexibility  
6 will allow States to tailor programs for those with the  
7 greatest barriers to getting and keeping a good job.

8 Adding options for States to cover an additional 12  
9 months of transitional medical assistance, along with  
10 many of the simplification provisions championed, as you  
11 mentioned, Mr. Chairman, by Senator Breaux, is also very  
12 helpful.

13 The robust package of child support reform to help  
14 get more money to custodial parents is an integral  
15 component of reducing poverty for families on welfare.  
16 And Senator Snowe's Parents as Scholars program supports  
17 parents getting an education. That helps lead people on  
18 a clear path to getting people out of poverty, and I  
19 compliment the Senator for that, in addition.

20 For my State of Montana, the tribal TANF provisions  
21 are especially important. The mark includes many  
22 provisions that are vital to helping Indian tribes under  
23 welfare reform, and I appreciate your openness, Mr.  
24 Chairman, to including those.

25 Many of these improvements are especially important

1 for my State because our waiver expired in 2003. Without  
2 the added flexibility and additional child care funding,  
3 Montana would not be able to meet the increased work  
4 requirements in your mark.

5 The mark also is a much more balanced package, I  
6 think, compared with the House bill. In my view, the  
7 House bill is a bit heavy handed. It is a heavy handed  
8 mixture of proscriptive rules and unfunded Band-Aids.

9 But of course, this is not perfect. It contains  
10 funding for social policy that has given me pause for  
11 quite some time. The so-called "abstinence only"  
12 provisions which provide welfare money for States to fund  
13 abstinence only education programs are quite proscriptive  
14 and limited. We need to make those funds more flexible  
15 for the States to determine what kind of education makes  
16 sense, an issue that I will revisit on the floor.

17 The mark incorporates constructive safeguards into  
18 the marriage promotion provisions that recognize a role  
19 for domestic violence prevention and clarify that  
20 participation in these programs is strictly voluntary.  
21 People should not lose their welfare benefits because  
22 they choose not to participate in marriage promotion  
23 activities.

24 As my colleagues know, while I am a strong supporter  
25 of marriage as a personal matter, I am highly skeptical

1 of marriage promotion in legislation. The Chairman has  
2 taken efforts to address these skepticisms, and I  
3 appreciate that very much. We need to respect privacy.  
4 We need to ensure that these largely untried marriage  
5 promotion programs are safe.

6 So, I thank you again. I thank you for your staff  
7 working with our staff to develop this compromise. It  
8 has not been easy and we have a long way yet to go. But  
9 I, again, appreciate the strong, strong efforts to  
10 cooperate and work together. Thank you.

11 The Chairman. I announced before everybody got here  
12 that I was hoping we could be done by 11:30. If  
13 individual members want to make a statement, I have an  
14 order to call now.

15 I would ask that the statements could be short,  
16 because we do want some explanation by staff before we  
17 would do it. There may be some amendments, but I think  
18 we have either worked out some amendments or we have had  
19 some agreement, at least between Senator Baucus and me,  
20 that some amendments would be left for the floor. So, we  
21 might have a quick mark-up once we get through the walk-  
22 through.

23 Does anybody want to make an opening statement?

24 Senator Santorum. I would like to put one in the  
25 record.

1 [The prepared statement of Senator Santorum appears  
2 in the appendix.]

3 The Chairman. Senator Snowe?

4 Senator Snowe. We will just put it in the record.

5 [The prepared statement of Senator Snowe appears in  
6 the appendix.]

7 The Chairman. All right. Then that will take care  
8 of that.

9 I would call up the Chairman's mark, an original bill  
10 placed before the committee. At the staff table this  
11 morning we have Becky Shipp, of my staff, Kate Kahan, who  
12 is Policy Advisor for the Democratic Staff, and Dean  
13 Zerbe.

14 We also have, if we need help from the  
15 administration, Dr. Horn. We thank you for being with  
16 us. We have George Yin, Staff Director of the Joint  
17 Committee, and Sheila Dacey for the CBO if we need help  
18 on any judgments.

19 I would like to ask the committee if they would  
20 dispense with the walk-through. If so, then I would  
21 place a modification to the Chairman's mark before the  
22 committee. We can go through the modification and then  
23 proceed directly to your questions.

24 Maybe we ought to take some time for the  
25 modification. Becky and Ms. Kahan will do that for us,



1 and anybody that wants to help them out is free to do  
2 that.

3 So, let us start with you, Ms. Shipp.

4 Ms. Shipp. Good morning. Thank you, Mr. Chairman.

5 Section 107 of the Chairman's mark is modified so  
6 that funding for the Social Services block grant is  
7 increased by \$1 billion over five years.

8 Section 116, "Child Care." The mark is modified to  
9 add \$5 billion in child care funding over five years.

10 Section 118, "Responsible Fatherhood." The mark is  
11 modified to provide an additional mandatory funding for  
12 \$20 million State demonstration, and \$30 million national  
13 demonstrations to promote responsible fatherhood.

14 Section 114, "Research, Evaluation, and National  
15 Studies." The mark is modified to appropriate \$10  
16 million annually for the development of comprehensive  
17 indicators of child well-being.

18 The mark is further modified in this section to  
19 include a report by HHS Secretary, in consultation with  
20 the Attorney General, on the enforcement of affidavits of  
21 support and sponsor deeming required by Public Law 104-  
22 193.

23 Section 119, "Additional Grants." The mark is  
24 modified to appropriate \$5 million to be spent over five  
25 years, for a national teen pregnancy prevention resource

1 center; to provide technical assistance to State, tribal,  
2 local, community, and faith-based organizations seeking  
3 to reduce the rates of teen pregnancy; support parents by  
4 equipping them with information and resources; to promote  
5 and strengthen communication with their children; assist  
6 the entertainment media industry by providing information  
7 and helping the industry develop messages that can  
8 prevent teen pregnancy.

9 Section 109, "Work Participation Requirements." The  
10 mark is modified to allow States the option to receive  
11 work participation credit for an individual whose plan  
12 specifies that they have a continuing need for  
13 rehabilitative services in order to engage in direct work  
14 activities.

15 The addition permits States the option of continuing  
16 to provide rehabilitative services, if needed, beyond six  
17 months. To be counted as working, recipients must be  
18 engaged in additional work activities for at least half  
19 the time required to count recipients without  
20 disabilities.

21 Eligible individuals must be determined using a  
22 medically acceptable clinical or diagnostic technique as  
23 having a disability that impedes the individual's ability  
24 to function in a work setting. To be eligible for the  
25 State option, State agencies must work collaboratively in

1 assisting the person with disabilities.

2 The mark is further modified in this section to  
3 clarify that parenting skills building shall count as a  
4 qualified work activity.

5 The mark further clarifies substance abuse counseling  
6 or treatment in the list of qualified activities to mean  
7 drug and alcohol abuse counseling and treatment.

8 Title 4, "Child Welfare." Section 401,  
9 "Clarification of Eligibility for Foster Care Maintenance  
10 Payments." The mark is modified to strike and replace  
11 the provision that clarifies current law in response to  
12 the Ninth Circuit Court decision *Rizalas v. Thompson* and  
13 replace it with reviews of State agency blindness and  
14 disability determinations.

15 Title 5, "Supplemental Security Income." Section  
16 502, "Reviews of State Agency Blindness and Disability  
17 Determinations." The mark is modified to include the  
18 extension of the Social Security Administration's pre-  
19 effectuation review provision, a phase-in rate of 25  
20 percent for the first year, and 50 percent thereafter.

21 The Chairman. I want Mr. Yin to report on the tax  
22 provisions. But before we do that, Ms. Kahan, did you  
23 have anything you wanted to add to the statement that  
24 Becky made?

25 Ms. Kahan. No, thank you.

1           The Chairman.    All right.

2           The Joint Tax will comment on the offset part of the  
3 bill.   Go ahead.

4           Mr. Yin.    Thank you, Mr. Chairman.

5           There are tax provisions that are part of the  
6 modification.   The first provision is the technical  
7 correction to fix the cross-reference in the Internal  
8 Revenue Code to a provision in the Social Security Act.

9           The provision carries out the intention of Congress  
10 in 1996 to limit the Earned Income Credit only to  
11 taxpayers if the taxpayer and his or her spouse has a  
12 valid eligible-to-work Social Security number in the  
13 United States.

14          The second provision corrects an outcome under  
15 present law which allows certain taxpayers with  
16 excludable income under Section 911, and a certain amount  
17 of additional earned income, to obtain the refundable  
18 portion of the child credit.   The proposal denies the  
19 refundable portion of the child credit to anyone with  
20 excludable income under Section 911.

21          Finally, the last provision has several parts.   The  
22 first part modifies one of the tie-breaking rules in a  
23 case where two or more people may claim a tax benefit  
24 relating to the same child.

25          Under the provision, if a child qualifies as a

1     qualifying child of his or her parent, then generally no  
2     other person may claim the child as a qualifying child.  
3     An exception is allowed if none of the eligible parents  
4     claims the child as a qualifying child and the otherwise  
5     eligible individual has a higher AGI than the parents.  
6     In that case, the otherwise eligible person may claim the  
7     child and the benefits.

8             The proposal also modifies the Earned Income Credit  
9     rules to provide that, in the case of two or more  
10    siblings who are qualifying children with respect to each  
11    other, the sibling with the highest AGI may claim the EIC  
12    if the claimant is otherwise eligible.

13            Finally, the provision makes certain technical  
14    corrections to the uniform definition of qualifying child  
15    legislation that was enacted last year.

16            The Chairman.     All right.

17            Now it is time for questions on the modification  
18    before we would ask you to accept the Chairman's mark, as  
19    modified.

20            Any questions?

21            [No response].

22            The Chairman.     All right.     Then the Chairman's mark  
23    is modified.

24            There were 13 amendments filed.     In advance, I would  
25    like to thank the members on both sides who withheld

1 their amendments or who have worked over the last 24  
2 hours to work with us and incorporate their amendments in  
3 the modification.

4 The mark is now open for amendment. Even though we  
5 do not have a quorum, we do have enough members under the  
6 rules to do amendments. I would ask that members please  
7 refer to the number of their amendment so there is no  
8 confusion on the consideration of it.

9 Do we have an amendment that somebody wants to put  
10 before us? Senator Bingaman?

11 Senator Bingaman. Mr. Chairman, I do not know if  
12 this machine is operating or not. I had three amendments  
13 I filed. I will not push any of them to a vote here at  
14 the committee, but I wanted a chance to just describe  
15 them, and hope that we can get members to focus on them  
16 so that when I do offer them, probably on the Senate  
17 floor, I can hopefully get support from members of this  
18 committee.

19 The Chairman. Without objection then, we would ask  
20 Senator Bingaman to explain all three of his amendments  
21 at one time. So, proceed.

22 Senator Bingaman. I will do that. They are,  
23 obviously, numbers 9, 10 and 11 on your list of committee  
24 amendments.

25 The first one relates to the issue of child care

1 funding. Senator Snowe has an amendment, which I very  
2 much support, and did in the last Congress as well, to  
3 increase child care funding. I think that is a very  
4 needed change in the law. The program has been frozen  
5 for years and it is woefully under-funded.

6 I am concerned that the proposed offset that we have  
7 come up with to pay for some of that, to provide child  
8 care for low-income families, has the effect of taking  
9 critical benefits away from other low-income individuals,  
10 in this case, legal immigrants who are working and paying  
11 taxes and receiving the Earned Income Tax Credit.

12 Now, the fact is, these families rely on the Earned  
13 Income Tax Credit for critical support and we are  
14 proposing to take away this support as a way to fund  
15 child care for others.

16 I think if the purpose of the legislation is to move  
17 people off of welfare into work, this has the effect of  
18 penalizing families that are working and creating a  
19 disincentive to work.

20 I believe the offset may have some unintended  
21 consequences. There are some questions about the reach  
22 of the offset, whether it goes further than the 1996 law  
23 requires. We may, in fact, be rendering families  
24 ineligible when they are not currently ineligible for the  
25 Earned Income Tax Credit.

1           So, as I say, I will not ask for a vote at this item.  
2           I have filed an amendment that would replace the proposed  
3           offset with an offset that would limit the ability of  
4           corporations to invert to avoid paying U.S. taxes.

5           I have been advised by people who have checked that  
6           we do not have the votes here in the committee to support  
7           my amendment, so I will wait until the floor to pursue  
8           this, but I wanted to call it to the committee's  
9           attention.

10          The Chairman.       Before you move on, I would like to  
11          tell you that you, as well as other Senators, have  
12          expressed to me a particular concern about this issue  
13          that you raise, and I will not describe it further  
14          because you did a good job of it. But it is about  
15          children who temporarily have a non-working Social  
16          Security.

17          Parents, in this situation, would not be eligible to  
18          claim the child for purpose of the EIC. Now, we are  
19          going to be reviewing this matter now and, first of  
20          all, verify, really, the problem--assuming that you are  
21          right--to see if it is possible that we find a way to  
22          address this and do this on the floor. So, that is the  
23          assurance that I would give you.

24          Before you go to your second and third amendment --  
25          Senator Snowe. May I make a point on that first?



1           The Chairman.    Yes.   Please do.

2           Senator Snowe.    All right.

3           The Chairman.    Let me say what I was going to say  
4 just before you do that.

5           There are 11 people here now.  I have not consulted  
6 with Senator Baucus on this, but we do have this bill and  
7 we have two nominations to take care of.  We could do  
8 that with the 11 present.  I will stay and listen to all  
9 the amendments that people want to do.  But it would save  
10 us, if we lose the quorum, getting together during a vote  
11 on the Senate floor.

12          Senator Lott.    This would be only on the two  
13 nominees?

14          The Chairman.    The two nominees and the bill.

15          Senator Lott.    And the bill?

16          The Chairman.    Yes.

17          Senator Baucus.   Mr. Chairman, I think it is a great  
18 idea to take advantage of the Senators who are here.

19          The Chairman.    Then I will listen to you after we  
20 vote here.  Now, I would ask that the committee favorably  
21 report the bill.  Those in favor, say aye.

22                 [Chorus of ayes]

23          The Chairman.    Those opposed, say no.

24          Senator Lott.    No.  Mr. Chairman, I want to be  
25 recorded as voting no.

1           The Chairman.    All right.

2           The ayes have it.   The bill is reported.   Senator  
3   Lott will be so recorded.

4           I would ask that the staff have the authority to  
5   draft necessary technical and conforming changes to the  
6   Chairman's mark.

7           The next order would be the reporting of two  
8   nominations to the full Senate.   I propose that we vote  
9   to report the following nominations en bloc: Harold  
10   Damelin, to be Inspector General of the Department of  
11   Treasury, and Raymond Wagner, to be a Member of the  
12   Internal Revenue Service Oversight Board.

13          Is there any discussion?

14          [No response].

15          The Chairman.    No discussion.

16          All those in favor, say aye.

17          [Chorus of ayes].

18          The Chairman.    Those opposed, say nay.

19          [No response].

20          The Chairman.    The ayes have it.   The nominations  
21   are ordered to be favorably reported to the full Senate.

22          Senator Snowe, for a comment.   Before you go to your  
23   next two amendments, Senator Snowe wanted to comment.

24          Senator Snowe.    Thank you, Mr. Chairman.   I would  
25   like to respond to Senator Bingaman.   He raises a very

1 legitimate issue. Someone once said, government does  
2 more harm inadvertently than by design. We do not want  
3 to create any unintended consequences.

4 But I do want to make a point about this offset. It  
5 was never intended, in the original legislation, the  
6 landmark legislation that was passed in 1996, to allow  
7 non-working individuals to receive the EITC, to claim the  
8 EITC.

9 In fact, I went back to review the law in 1996 that  
10 was passed by Congress and signed by the President, the  
11 landmark legislation, and it was clear that the Earned  
12 Income Credit was denied to individuals not authorized to  
13 be employed in the United States. So, that is the  
14 offset.

15 Now, we understand that it could create harm when it  
16 comes to children of those non-working individuals that  
17 do not have a working Social Security number. That is  
18 the difficulty for the IRS, to make the distinction  
19 between working and non-working Social Security numbers,  
20 and hence, my offset.

21 But we do want to get to the issue as to whether or  
22 not it is creating harm to those children of those  
23 parents. I think, even those individuals who are non-  
24 working individuals in this country, they can claim State  
25 benefits and they have a Social Security number.

1           But they should not be claiming the Earned Income Tax  
2 Credit as a benefit, because obviously the original  
3 intent and design of the EITC was to help working low-  
4 income Americans. That obviously has created a loophole  
5 over the last two years and since the passage of the  
6 Welfare Reform Act in 1996.

7           So, the offset is designed not to get at legal  
8 working Americans, but rather those who have non-working  
9 Social Security numbers and who, therefore, logically,  
10 should not be using the EITC as a benefit.

11           But I understand the issue that you have raised,  
12 Senator Bingaman, with respect to the impact it has on  
13 those children, and particularly those families in trying  
14 to claim State benefits. They should be allowed to do  
15 that, but again, not using the EITC, because that is for  
16 working Americans. So, that is what this issue is all  
17 about.

18           I want to thank you, Mr. Chairman, Senator Baucus,  
19 for working together to try to resolve these issues  
20 because we do not want to create unintended harm to the  
21 children of these families in the final analysis. So,  
22 hopefully we can work it out once this bill is reported  
23 from the committee.

24           The Chairman. Senator Santorum, on this point,  
25 because he has two more amendments, I promised him.

1 Senator Santorum. Yes. Thank you, Mr. Chairman. I  
2 just wanted to associate myself and those remarks from  
3 the Senator from Maine. When I get a chance to do that,  
4 I jump at it. [Laughter].

5 Senator Snowe. This is an historical occasion.  
6 [Laughter].

7 Senator Santorum. So we agree on that, that the  
8 Earned Income Credit to help supplement workers, if you  
9 are not eligible to work, it is not an appropriate place.  
10 There may be other places we want to help these families,  
11 but obviously not with the Earned Income Tax Credit.

12 I just wanted to bring up the whole point of child  
13 care. I know that was one of the things mentioned that  
14 the Senator from New Mexico brought up. I have some  
15 serious concerns about the dramatic increase in this  
16 bill.

17 I think we have done some things with these offsets  
18 and others to allay my concerns for the moment, but I do  
19 believe that a lot of the work that has been done since  
20 the 1996 Act, on both sides of the aisle, have shown that  
21 the issue of child care is a Washington-based issue. It  
22 is not an issue out in the States. It is not an issue in  
23 the neighborhoods.

24 There are a lot more important issues out there that  
25 we can be funding and taking care of, and I would argue

1 we are doing so in this bill, and that is, trying to help  
2 restore fathers into the homes, which is the most  
3 important thing that is missing in the 1996 bill. We did  
4 not do a very good job of that. The fatherhood  
5 initiative, I think, will do so.

6 I think some of the work that we are doing on  
7 marriage in this bill is vitally important, and much more  
8 important as far as helping the lives of children. The  
9 facts are overwhelming that marriage is a benefit to  
10 children. It saves children from poverty.

11 Only 7 percent of kids in America who are in a  
12 married home are in poverty; 51 percent, in a home where  
13 a never-married mom is taking care of them, are in  
14 poverty. Those are the kinds of things we need to look  
15 at instead of trying to slap more Band-Aids on a system  
16 and a life that is not one that is going to benefit  
17 children over the long term.

18 Thank you, Mr. Chairman.

19 The Chairman. On this point of his amendment. He  
20 has to go, Senator Bingaman. You go ahead and speak  
21 because I know you have got to go.

22 Senator Hatch. Thank you, Mr. Chairman. Thank you,  
23 Senator Bingaman.

24 Look, I have been for child care from the beginning,  
25 because the child care development block grant started on

1 this. But here we are, increasing the workload of  
2 people, which I am for, and increasing other obligations  
3 in this bill.

4 If we are going to do that, reality is, there are a  
5 lot of women out there that are in dire need of child  
6 care, and the children, it goes without saying, are in  
7 need of child care. So if we are going to make this  
8 work, we have got to make it possible so they can work.

9 Frankly, yes, it costs money. It is the next best  
10 thing to what the distinguished Senator from Pennsylvania  
11 is talking about, and that is, a two-parent home where  
12 one stays home and takes care of the children. But that  
13 is the reality today.

14 So, I hope that we can pass this bill with this type  
15 of a child care increase, because I think it is the right  
16 thing to do. I think it is great, and I think it is a  
17 conservative thing to do. Spending money may not seem  
18 like it, but I think that the ultimate aim here is a good  
19 aim. Thus far, we have been able to help a lot of  
20 families that otherwise would not be able to take care of  
21 their own needs if it was not for the additional child  
22 care that we are putting up here. Frankly, I hate to  
23 spend money, like everybody else. But on this one, when  
24 it comes to children and families, I am willing to go to  
25 the mat with anybody on how important this is.

1           So, I appreciate the compromise you have made, Mr.  
2 Chairman and Senator Baucus. You have done the very best  
3 you can. We have been arguing these matters for a long  
4 time. We have a majority on this committee who support  
5 this.

6           I respect my colleagues who do not agree, but I  
7 frankly have been living with this issue for many, many  
8 years, and I really believe, if we are going to expect  
9 people to work and we are going to expect them to have  
10 additional workloads and work times under this bill,  
11 which we do, then we ought to be helping these same heads  
12 of households with child care so they can do it.

13           The Chairman.     Senator Baucus?

14           Senator Baucus.    I agree. We want to encourage,  
15 clearly, people to work. This offset matter and the  
16 modification and the questions that have been raised, I  
17 think, are very good questions that need to be addressed.  
18 The goal, obviously, is to help people get to work.  
19 Children should not deny a parent the right to work, and  
20 vice versa.

21           I also, Mr. Chairman, would point out just how far a  
22 lot of Senators--not on this committee, and some on this  
23 committee--have come with child care funding. I can  
24 remember, there were provisions, amendments, to provide  
25 \$11 billion for child care. There were other Senators



1 who compromised down to \$8 billion for child care.

2 I am thinking of Senator Dodd, in particular, Senator  
3 Kerry is another. We are now down to a much lower level,  
4 but a level which I think is adequate, given where  
5 different Senators are, and one that I think is  
6 appropriate. But we have got to get on with it.

7 All of us know who meet with single moms, and  
8 sometimes moms that are not single, just the tremendous  
9 strain that they go through in trying to make ends meet  
10 and take care of their kids while they are trying to  
11 support their family. It is extremely, extremely  
12 difficult.

13 I might say, in my State of Montana, I think we are  
14 first in the Nation in the number of jobs per household.  
15 People are having such a hard time making ends meet. I  
16 mean, three or four jobs per household. That means,  
17 clearly, if they are going to survive and stay off  
18 welfare, they have got to have some help with their  
19 children. They need child care. They just need child  
20 care. They need it.

21 I have looked a lot of women in the eyes, and they so  
22 want to stay off welfare and not get on welfare. They  
23 want to have all these jobs. They love having these  
24 jobs, frankly, as long as they can take care of their  
25 children. They cannot, when they are at work. So, it is

1 just extremely important for those people.

2 I might say, too, it slips in a little bit of  
3 education. There are provisions in this bill which help  
4 support more education, which I think is clearly the  
5 direction in which this country needs to go. I am not  
6 going to go too far on this point, and we will stop very  
7 quickly.

8 But just to say, down the road 20 years from now,  
9 where are we going to be? Where is this country going to  
10 be 20 years from now, 30 years from now? Where are our  
11 kids and grandkids going to be? What are they going to  
12 be doing in, say, countries like China, India, other  
13 countries who are so competitive and spending so much  
14 time on education? We have got to address education in  
15 this country in all the levels and all the areas that we  
16 can, and in this bill there are provisions which help  
17 make that happen.

18 The Chairman. Senator Bingaman, for amendments  
19 number two and three.

20 I have also been informed that the vote was for  
21 11:30, but there is some suggestion that it might be a  
22 little earlier.

23 Senator Lott. Mr. Chairman, before we go to the  
24 amendment, could I just be heard, in general, on the  
25 legislation? I will be brief.

1           The Chairman.    Go ahead.

2           Senator Lott.    First of all, Mr. Chairman, obviously  
3 there are some good reasons to move welfare reform  
4 legislation to the next step. I was very much involved  
5 in it, as were you. When we passed it back in 1997, it  
6 had some very good benefits. We cut rolls substantially.

7           People have been able to get the bridge that they  
8 need to the rest of the line for training and education,  
9 and it has had a lot of benefits. But over the years, I  
10 think it has kind of stalled out.

11          If we do not do something, then the work  
12 participation will not be sufficient, to say the least,  
13 if we are not really requiring them to work. I think  
14 that is an important part of the whole process.

15          I do have some real problems with the legislation as  
16 it now stands. I do not think the work requirements are  
17 strong enough. There are too many, what I consider,  
18 inadequate ways to get around the work requirement.

19          While I think education and training is a part of it,  
20 I do think that the work requirement is a critical part  
21 in helping people be able to get off of welfare and get  
22 the experience they need to be able to get a job.

23          On the child care funding, my question is, how much  
24 is enough? Here at a time when we are saying we are  
25 worried about deficits, we come right along with one of

1 the first bills, if not the first bill we passed this  
2 year, and we have \$5 billion for child care. I have a  
3 concern with that.

4 By the way, as the numbers have gone down and as the  
5 numbers continue to go down, why are we going to be  
6 needing more child care? Somebody has to also think  
7 about those working moms that are working, like my own  
8 daughter with two daughters. After she pays her taxes  
9 and she pays for her child care, it is really quite  
10 doubtful that it is worth her even working. I have a  
11 concern about that.

12 I agree with having some incentives, some opportunity  
13 to fund child care where there is a real need. I just  
14 think there is too much money here at a time where we  
15 really do not need it, and when we are trying to push the  
16 numbers in another direction, more people off of welfare,  
17 more people working so they can get a job. Yet, we are  
18 increasing it by \$5 billion and I think that is a real  
19 problem.

20 But there is a long way to go through this process on  
21 the floor of the Senate, if the bill is called up.  
22 Remember what happened last year. It wound up being  
23 parked for the rest of the year. But I know we have  
24 still got to find a way to weasel it through the Senate,  
25 and then conference, hopefully, will fix the problems we

1 have.

2 Thank you, Mr. Chairman.

3 Senator Lincoln. Mr. Chairman?

4 The Chairman. Senator Lincoln?

5 Senator Lincoln. This seems to be the appropriate  
6 place to just add in our comments on child care. In  
7 deference to my colleague, I will be more than happy to  
8 allow him to go ahead with his amendments if he has  
9 somewhere he needs to go.

10 Senator Bingaman. No. I am just watching.

11 Senator Lincoln. I will save my comments for my  
12 amendments and what I did after he does his. But I do  
13 think that it is so important that we recognize, first of  
14 all, the hard work that you and Senator Baucus have put  
15 into it, along with your staffs, in coming up with a  
16 bipartisan piece of work that we can move through this  
17 committee; recognizing that it is not everything that  
18 everybody wanted, but the fact is, we are moving forward.

19 My hope is that, as we move forward, we can maintain  
20 that same bipartisan spirit and recognize that there is  
21 much to be done. But without a doubt, everybody has a  
22 stake in this.

23 The comments I would like to make about child care.  
24 Our studies show us that initial job quality and the  
25 sustainability of individuals in the workforce, without a

1 doubt, the work support programs like child care and  
2 transportation dramatically affect a parent's ability to  
3 maintain employment over an extended period of time.

4 Our objective here is to allow individuals in this  
5 country the dignity of being in the workplace and  
6 sustaining themselves, providing that dignity and  
7 independence to their families. There is no doubt that  
8 child care is a critical part of that.

9 I have to say, as a working mother and having gone  
10 through the transitions of child care myself recently, my  
11 children were born when I was 35. My needs were  
12 dramatically different then than they are now, with  
13 children that are school-aged.

14 Looking at the needs and what is available out there  
15 to parents, particularly working mothers, is something  
16 that we all have to come to grips with.

17 I would like to associate myself with the comments  
18 from Senator Hatch, who recognizes that maybe it is not a  
19 perfect world, but it is the world we find ourselves in.  
20 It is so important.

21 Senator Santorum makes wonderful remarks about how  
22 critically important it is to the well-being of all of  
23 the children of this country to have two parents, but it  
24 is not a reality in many households.

25 The fact is, you have got people, men and women,

1 working themselves to the bone to provide for these  
2 children. If we do not provide the kind of assistance  
3 that they need, not only to be able to pay for the child  
4 care but just so we can assure that the child care is  
5 accessible, being able to make sure that my children are  
6 picked up after extended day from school when I do not  
7 know when the next vote is going to be is not anything  
8 different from a young working mother who is out there  
9 and asked to perform overtime.

10 To be out there and to stay for her job, what is she  
11 going to do? She's got the same problem I do, whether it  
12 is making sure she can make it for an early morning  
13 meeting and knowing that someone is going to get her kids  
14 to the bus to get them to school.

15 Or what happens if, oh, my God, we have another  
16 nightmare of a week like we had last week where we had  
17 two snow days and two teacher work days. My kids were  
18 out four days last week. Without full-time child care,  
19 that is a nightmare for parents.

20 So, it is not just providing child care. It is not  
21 just paying for it. It is making sure that, as a Nation,  
22 we understand that if women are going to work, they are  
23 going to have to have the assurance that there is a  
24 loving and safe environment for their children to be in  
25 in order for them to be the productive people we want

1       them to be.

2           I just feel a little passionate about this, Mr.  
3       Chairman. [Laughter]. And you are wonderful, because  
4       you always listen to me. [Laughter]. But I do think it  
5       is critically important that we understand.

6           I am willing to understand that there are those that  
7       do not want to go as far, but to understand that there is  
8       a need out there. Sometimes, as Senator Santorum  
9       mentioned, you do not see that problem.

10          Many of our States do not have waiting lists. That  
11       is why you do not see the need that exists out there for  
12       the child care that is not available to working families  
13       or to mothers.

14          So, I am grateful to you, Mr. Chairman, for your  
15       willingness, for the staff's, in working with us to  
16       recognize that there is a happy medium to be met, and  
17       that this really is a critical issue for the future of  
18       our country because these are those precious children  
19       that are going to be our leaders.

20          So, thank you, Mr. Chairman. I will defer to my  
21       colleague here.

22          The Chairman. I am just glad you did not have an  
23       amendment with that, Senator Lincoln. [Laughter].

24          Senator Bingaman, for amendments number two and  
25       three.



1           Senator Snowe.   Mr. Chairman?  Can I just raise a  
2 point?  I do want to make sure that the members of this  
3 committee know, because I understand the diversity of  
4 views on this particular subject and I appreciate the  
5 consensus, Mr. Chairman, that you constructed, along with  
6 Senator Baucus and others on this committee to make it  
7 possible, in stark contrast to a couple of a years ago  
8 where we were not even able to pass out a bipartisan  
9 mark.  So, that obviously bodes well for this  
10 legislation.

11           The point is, here, this is not an arbitrary number.  
12 In fact, it is \$1 billion less than what we passed on the  
13 floor with a vote of 78 to 20, I might add.  So, there  
14 was strong bipartisan support for \$1 billion more than is  
15 reflected in this mark.  This is not an arbitrary number,  
16 I want to assure you.  I try to deal with the facts in  
17 working on these particular initiatives.

18           As Senator Lincoln indicated so eloquently, there is  
19 unmet need.  If you look at not only the child care  
20 development block grant, social services block grant, and  
21 TANF, only 26 percent of the eligible children are  
22 receiving adequate child care in America, and only 1 in 7  
23 under this legislation, 12 to 15 percent.  There is a  
24 crucial and unmet need that Senator Lincoln has  
25 underscored, and that is true in America.  So, that is

1 what this is based on. Frankly, we have not gone far  
2 enough.

3 But I understand the issues here and I applaud  
4 everybody for agreeing to make this possible to have a  
5 strong support for this legislation, and incorporating  
6 the child care number in this bipartisan mark rather than  
7 having to fight it out on the floor. So, I really  
8 appreciate it and I thank everybody for supporting it.

9 The Chairman. Let me assure you, Senator Bingaman,  
10 there is no conspiracy on our part to keep you discussing  
11 your amendments. [Laughter].

12 Senator Bingaman. I am only on the second  
13 amendment, Mr. Chairman. [Laughter].

14 The Chairman. Go ahead, please.

15 Senator Bingaman. All right.

16 Mr. Chairman, the second amendment that I have here  
17 is number 10 on your list. It is one that I am offering  
18 along with Senator Wyden. The purpose will be to provide  
19 States with the flexibility they need to help move TANF  
20 recipients from welfare to work in the manner that they  
21 deem most appropriate.

22 This is a federally funded, State-run program that we  
23 are talking about here. Currently, TANF is the only  
24 federally funded, State-run program of its kind without  
25 waiver authority. We had the hearing with Secretary

1 Leavitt a couple of weeks ago, I believe, where he spoke  
2 very eloquently about how we need to provide flexibility  
3 to the States on Medicaid.

4 Clearly, we have that capability in the Medicaid law.  
5 The Secretary can provide waivers. The same thing with  
6 the CHIP program and the food stamp program. All of  
7 these are programs where the Secretary has authority to  
8 grant waivers.

9 Last year, I offered an amendment, along with  
10 Senators Wyden, Allen, Makaka, Inouye, Burns, and Colman  
11 that would allow any State to request a waiver of the  
12 TANF requirements from the Secretary in order to help  
13 them accomplish the objectives set out in this  
14 legislation of moving people from welfare into work.

15 This amendment would allow any State that is or was  
16 operating under a waiver of the TANF perform to continue  
17 to operate its TANF program under that waiver. It would  
18 also allow any State to request a waiver of the TANF  
19 requirements.

20 It does not require the Secretary to grant the  
21 waiver, but it does at least permit States to request the  
22 waiver. So, I think it is a very meritorious amendment.  
23 It is budget neutral. It does not cost anything.

24 It would provide States with much-needed flexibility  
25 to develop the programs that actually work given the

1 circumstances that they face. So, I believe it is one  
2 that we should adopt.

3 I have been advised that we do not have sufficient  
4 votes here in the committee to do that, and accordingly I  
5 will wait and hope to offer this, as well as the first  
6 amendment, on the floor.

7 Mr. Chairman, I will go on to the third amendment  
8 that I have here, which is number 11 on your list. This  
9 amendment would correct a technical, but a very  
10 important, problem that was caused by the 1996 Welfare  
11 bill.

12 Section 411 of the welfare law reads that "State and  
13 local government may not provide non-emergency health  
14 services to non-qualified immigrants unless they have  
15 passed new legislation authorizing such expenditures."

16 That is what the provision of law provides. There is  
17 real ambiguity in that language. Some States have  
18 interpreted it one way, others have interpreted it  
19 another way.

20 There is a strong argument that the provision is  
21 unconstitutional, that it could not withstand the 10th  
22 amendment challenge. It interferes with State and local  
23 governments' authority to spend their own revenue as they  
24 see fit.

25 I do not really think that ought to be what we are

1 about here in Congress. The 10th amendment has been  
2 interpreted to say that Congress may not assume control  
3 over the legislative processes of the States by directly  
4 compelling them to enact and enforce a Federal regulatory  
5 program, which is exactly what we have done in that 1996  
6 law.

7 Further, the current language creates a double  
8 standard by which none of the major Federal public health  
9 programs that are run out of our Health and Human  
10 Services Department have to screen for non-qualified  
11 immigrants, but State and local governments would have to  
12 pass laws to provide those exact kinds of services and  
13 provide some method of screening.

14 So, clearly, we have got a serious problem there.  
15 Again, this is an amendment that I am advised we do not  
16 have the support for in this committee. Senator Cornin,  
17 from Texas, is a strong supporter of this amendment with  
18 me, and I would hope that we could offer this on the  
19 Senate floor and get this problem in the law corrected.

20 With that, I will desist and allow other members to  
21 discuss their amendments.

22 The Chairman. On your point just made on the last  
23 amendment, we obviously could have taken a look at that  
24 if we had not had to wait for the score. That is an  
25 issue that we will be able to deal with between now and

1 floor action.

2 Senator Bingaman. Thank you very much.

3 The Chairman. Senator Wyden?

4 Senator Wyden. Thank you, Mr. Chairman. Mr.

5 Chairman, I want to express my appreciation to you and  
6 Senator Baucus for all of the help that you both have  
7 given Senator Smith and I, working on the various issues  
8 surrounding Oregon's welfare reform program.

9 I would like to just take a minute or two to try to  
10 reflect on what I think is happening in Oregon and how it  
11 affects the country.

12 This is extremely important legislation because this  
13 is the first time the Congress really has an opportunity  
14 to build on the welfare revolution that began in 1996. I  
15 think what was done then is extremely important because  
16 there was a clear recognition that there is a link  
17 between personal responsibility, which is a critical  
18 priority in this field, and the opportunity for people to  
19 get the kind of assistance, the kind of help with child  
20 care, medical, and other kinds of services, that is also  
21 a prerequisite to moving forward in the private sector,  
22 having a different life, and being able to contribute in  
23 all parts of our society.

24 One of the best ways to carry out this welfare  
25 revolution, I think, has been to recognize that not all

1 the wisdom belongs in Washington, DC. Essentially, in  
2 the 1990s there was a much wider berth for States to  
3 carve out approaches that made sense for their areas than  
4 what we are looking at today. I think that is  
5 unfortunate.

6 I think that you, Mr. Chairman and Senator Baucus,  
7 have been very helpful to Senator Smith and I as we have  
8 tried to address some of the concerns of Oregon. We are  
9 going to continue to try to do that, I think, in a  
10 colloquy on the floor when we deal with this legislation.

11 But I would just say to colleagues, that to continue  
12 the innovation that is so important in this field,  
13 innovation built on this combination of personal  
14 responsibility and assistance with substance abuse  
15 counseling, various other kinds of services, we ought to  
16 make sure, at a minimum, that States that have been  
17 pioneers in this field should have an opportunity to  
18 continue it.

19 That is why we will have the bipartisan amendment on  
20 the floor with respect to allowing States like Oregon and  
21 others who have been leaders in this field to continue  
22 their waivers, and I hope that we can work with you, Mr.  
23 Chairman and Senator Baucus, to get a bipartisan  
24 agreement on it.

25 I thank you for this time to speak.

1           The Chairman.    Any other amendments to come before  
2 the committee?  Senator Lincoln?

3           Senator Lincoln.   Thank you, Mr. Chairman.

4           The Chairman.    Then Senator Baucus.

5           Senator Lincoln.   Mr. Chairman, first of all, I want  
6 to thank you.  I had two amendments.  It is my  
7 understanding that the second one was accepted, and I am  
8 enormously grateful that it was included in the mark.

9           I just want to reiterate to my colleagues on the  
10 committee that if we are very serious about strengthening  
11 families and reducing poverty, improving child well-being  
12 and encouraging healthy marriage, reducing teen pregnancy  
13 is one of the most important things that we can do to  
14 make progress on all of these fronts.

15           By strengthening the efforts to reduce teen  
16 pregnancy, a national teen pregnancy prevention program  
17 advances the underlying goals of welfare reform,  
18 including reducing out-of-wedlock childbearing, promoting  
19 work and responsibility, and improving child well-being.

20           We all know that young children born to a mother who  
21 is a teenager who is not married and did not finish high  
22 school are nine times more likely to be poor than  
23 children born to mothers without these three risk  
24 factors.  Two-thirds of teen mothers never finish high  
25 school.  All of these things culminate.



1           One of the things that is so important, I think, for  
2 us to remember, is that although teen pregnancy rates are  
3 declining in the U.S., we not only want to continue that  
4 trend, but we still have the highest rate of teen  
5 pregnancy and birth in the industrialized world,  
6 something we can improve on.

7           So, I am enormously grateful to you, Mr. Chairman,  
8 and to the Ranking Member, and to the staff, for working  
9 with me on this amendment. I think it will be enormously  
10 productive to the overall effort of what we want to do in  
11 terms of welfare reform and ceasing the cycle that exists  
12 in terms of poverty and what exists out there among the  
13 hardships, particularly for teen mothers and their  
14 children.

15           The last thing I wanted to mention, Mr. Chairman, was  
16 the efforts on the employment credit. I want you to know  
17 how grateful I am that you had worked with me on this  
18 issue. The employment credit rewards behavior that we  
19 ought to be rewarding.

20           States helping families get jobs and getting better  
21 paying jobs that are sustainable means that we do not  
22 have people coming off and on the welfare rolls, but we  
23 get them into a life cycle that they can perpetuate, not  
24 just for themselves, but for their children as well,  
25 which is really the ultimate goal of what we have here in

1 providing the assistance so that families do not need  
2 welfare.

3 That they can get off of welfare and get into good  
4 jobs is incredibly important. I do not agree with the  
5 cap, as you know, but I am grateful to your staff and to  
6 you for working with me in bringing about a study so that  
7 we can better understand.

8 I want you to know that, from whatever the study  
9 brings about, I am 100 percent committed to maintaining  
10 myself at the drawing board and developing whatever works  
11 best in making sure that these programs can work for our  
12 State.

13 The efforts of just dropping people off the rolls to  
14 meet any kind of a requirement, I think, defeats the  
15 purpose of what we really, really want to do in this  
16 legislation. Again, that is to provide all Americans  
17 with the dignity of independence and self-sufficiency for  
18 their family and for their children.

19 So, thank you so much, Mr. Chairman, and to Senator  
20 Baucus and your staffs, for working with us on both of  
21 these issues. Again, I look forward to working with you  
22 between here and the floor, and then on through  
23 conference, as we make this bill a reality. Thank you.

24 The Chairman. Senator Baucus?

25 Senator Baucus. Thank you, Mr. Chairman. Just very

1 briefly. Senator Jeffords is unable to be here. So, I  
2 just want to note that he has an amendment which he does  
3 not want to be pushed here in the committee, but that he  
4 will raise on the floor.

5 Essentially, it would allow two years of vocational  
6 education and training. Currently, the law is one year.  
7 He would like to increase that to two. Obviously, a lot  
8 of degrees take more than one year if you go to  
9 vocational technical training. That is his amendment.

10 Second, Mr. Chairman, I have an amendment which I  
11 also will just note that I will raise on the floor. It  
12 would repeal the five-year limitation on the eligibility  
13 of qualified aliens for Medicaid and CHIP. This was an  
14 issue, as you know, that came up in the Medicare  
15 prescription drug conference.

16 The argument was that this amendment is more properly  
17 a part of this legislation than it was back then under  
18 the Medicare prescription drug legislation, and I just  
19 think it is time to restore health insurance coverage for  
20 legal immigrants, and on the floor I will offer that  
21 amendment.

22 The Chairman. All right.

23 Is there anybody else that wants to speak?

24 [No response].

25 The Chairman. All right. Then the meeting is

1 adjourned. Thank you all very much. This was a great  
2 cooperative effort on behalf of everybody's part, and I  
3 thank you all very much for helping us to get a quorum.

4 [Whereupon, at 11:23 a.m. the meeting was concluded.]

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I N D E X

PAGE

STATEMENT OF:

THE HONORABLE CHARLES E. GRASSLEY  
A United States Senator  
from the State of Iowa

3

THE HONORABLE MAX BAUCUS  
A United States Senator  
from the State of Montana

11

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Senator Jay Rockefeller  
Opening Statement Finance Mark up of Reauthorization of TANF  
March 9, 2005

Mr. Chairman: First, I want to publicly thank you, and Senator Baucus, as well as your staff members who have worked so long and hard to forge a bipartisan bill. I genuinely appreciate this intense effort. This effort reflects the bipartisan history of the Finance Committee, and your commitment to reach across the aisle – thank you.

Welfare reform is an important policy and I have been strong advocate for the reauthorization of the TANF program for many years. In previous years, I have introduced my own reauthorization legislation and worked with bipartisan groups. This year, I am proud to work with my Chairman and the Ranking Member to find compromise, and hopefully enact legislation. It is time for us to give states a real blueprint for the next years of welfare reform rather than short-term extension.

Welfare reform is a challenging issue that has become more complicated due to our current budget pressures. I strongly believe that new investments in child care funding are critical for parents to make the transition from welfare to work – and such investments are fundamental for my support of the package.

Equally important, Mr. Chairman, your provisions regarding work hours, including continuing the flexibility within current law for mothers with young children under 6 years old. I also strongly support your concept of partial credit for parents beginning to who are just beginning to make the transition to work by starting at 20 hours or more. While my initial legislation did not change the hourly requirement, your package is a real compromise and your provision on partial credit set an important signal about the dignity of all work.

Other key provisions in the package are items that I have worked on for many years, including a new Contingency Fund to help states in recessions, transitional jobs and partnerships to move families into work, and Incentives for Program Improvement for our states. Many states, like West Virginia, are now in compliance with federal standards due to the caseload reduction credit. But the bold change to an employment credit sets a new and better standard but states will need incentives to meet new standards. I appreciate your consideration.

The child support provisions offer by Senators Snowe and Kohl are very important, and I have consistently cosponsored such action. I also endorse the enhancements to transitional Medicaid. My passion for providing health care to children and families is well known on this committee.

As a former Governor, I am very sensitive about welfare reform and the importance of working closely with Governors and the State Legislators. This program is a partnership with states, and as the federal rules change, it will be essential to provide time and flexibility to achieve new goals. We also must honestly acknowledge that some states are at different points, and they may need incentives and time to improve.

I supported welfare reform in 1996 because I felt that the underlying program, Aid to Families with Dependent Children (AFDC), was broken and it did not represent our basic values. The program discouraged parents from moving from welfare to work.

Our new program has better incentives, but if we want parents to move from welfare to work, they need help. They need child care. They need training. And in rural states like West Virginia, they many need transportation because too few of our counties have regular and reliable public transportation. I can support today mark because it recognizes such needs. It may not invest as much I had hope, but it acknowledges the obvious needs. As we go forward, I hope to strengthen and improve this package.

Tough decisions had to be made on this bill. While it is not perfect, I support moving forward. The reauthorization of welfare reform has been a challenge for several years. I hope and trust we can continue the spirit of bipartisan leadership by Senator Grassley and Baucus as we move forward. We need to maintain this bipartisan process throughout our debates if we hope to succeed in enacting to good and balanced package.

**UNITED STATES SENATE  
COMMITTEE ON FINANCE**

**Charles E. Grassley, Chairman**

Wednesday, March 9, 2005

628 Dirksen Senate Office Building

**Agenda for Business Meeting**

- I. An original bill entitled, "Personal Responsibility and Individual Development for Everyone Act" (PRIDE ACT)
- II. Nomination of Harold Damelin to be Inspector General, Department of the Treasury, Washington, DC
- III. Nomination of Raymond Wagner, to be Member of the Internal Revenue Service Oversight Board, Washington, DC



Amendment List  
 Personal Responsibility and Individual Development for Everyone  
 PRIDE

Committee Number	Senator	Summary
1	Snowe #1	Child Care Funding: Add an additional \$5.1 billion. Offsets: Non-working social security numbers; section 911; uniform definition of a child
2	Snowe #2	Child Care Funding: Add an additional \$5.1 billion. Offset to be identified later.
3	Kyl #1	Sponsor Accountability Amendment
4	Santorum #1	Responsible Fatherhood; Social Security Block Grant; Child Care
5	Smith #1	Rehabilitative and Barrier Removal Services Extension
6	Baucus #1	Substitute for the Clarification Regarding Rosales Child Welfare Case
7	Baucus #2	Immigrant Children's Health Improvement Act (ICHIA)
8	Jeffords #1	Vocational Education Enhancement Amendment
9	Bingaman #1	To replace the revenue offset that reduces the number of taxpayers who currently receive the EITC with the following two revenue offsets: Tax treatment of inversion transactions; and, Impose mark-to-market on individual expatriates.
10	Bingaman #2	Cosponsored by Senator Wyden. State Option to Continue Waivers.
11	Bingaman #3	To clarify that state and local governments may provide health services to immigrants with their own revenue.
12	Lincoln #1	Eliminate cap on employment credit.
13	Lincoln #2	National Teen Pregnancy Prevention Resource Center
14	Wyden #1	Clarification that for states operating under waivers, the provisions of the PRIDE take effect on the date of enactment

1

**Senator Snowe  
Amendment # 1 to Provide Additional Funding for Child Care**

Snowe Amendment to Chairman's Mark for Personal Responsibility and Individual Development for Everyone (PRIDE)

**Chairman's Mark:** The Chairman's mark contains \$1 billion for child care funding.

**Proposed Amendment:**

**Child Care Funding**

**Title I Section 116 – Funding for Child Care**

The Amendment would add an additional \$5.1 billion dollars in funding for child care (For a total of \$6.1 billion). The increased funding would be spread in the following amounts over the following years and is offset.

FY2006: \$700,000,000  
FY2007: \$800,000,000  
FY2008: \$1,000,000,000  
FY2009: \$1,100,000,000 (requiring a state match)  
FY2010: \$1,500,000,000 (requiring a state match)

**Description of offsets**

1) NonWorking Social Security Numbers: A provision that prevents individuals who have a non work social security numbers from claiming the EITC. The provision would require every individual claiming the EITC to have a working Social Security number. Individuals with non-working Social Security Numbers, regardless of why they were offered, would not qualify. (Provision taken from the President's Budget)

2) Section 911: A provision that prevents individuals electing under section 911 to claim the refundable child credit. This is similar to the rule for EITC. (Provision taken from Joint Committee on Taxation Options to Improve Compliance)

3) Uniform definition of qualifying child

Modify the uniform definition of qualifying child as follows: (1) if a child is a qualifying child to one or more parents then no other individual may claim the child as a qualifying child unless none of the eligible parents claims the child and the otherwise eligible individual has adjusted gross income higher than the parents; (2) modifies eligibility for the earned income credit to allow, with respect to two or more siblings who are qualifying children with respect to each other, the sibling with the highest adjusted gross income may claim the credit; and (3) provide technical corrections.

2

**Senator Snowe**  
**Amendment # 2 to Provide Additional Funding for Child Care**

Snowe Amendment to Chairman's Mark for Personal Responsibility and Individual Development for Everyone (PRIDE)

**Chairman's Mark:** The Chairman's mark contains \$1 billion for child care funding.

**Proposed Amendment:**

**Child Care Funding**

**Title I Section 116 – Funding for Child Care**

The Amendment would add an additional \$5.1 billion dollars in funding for child care (For a total of \$6.1 billion). The increased funding would be spread in the following amounts over the following years and is offset.

FY2006: \$700,000,000

FY2007: \$800,000,000

FY2008: \$1,000,000,000

FY2009: \$1,100,000,000 (requiring a state match)

FY2010: \$1,500,000,000 (requiring a state match)

**Offset:** To be identified later.

3

Kyl Amendment #1 to the PRIDE Act of 2005

Short Title of Amendment:

Sponsor accountability amendment

Text of Amendment:

Not later than June 30, 2005, requires the HHS Secretary, in consultation with the Attorney General, to submit a report on the enforcement of affidavits of support and sponsor deeming required by P.L. 104-193. [Section 115(c)]

Contact: Noah Silverman, 4-4521

4

**Santorum Amendment #1**

to the Chairman's Mark of the Personal Responsibility and Individual Development for Everyone (PRIDE) bill

Description of Amendment:

1) **Responsible Fatherhood**: Would amend Section 118 to provide annual mandatory funding for the \$20 million state demonstration and \$30 million national demonstrations. Will be offset by reductions in the high performance bonus.

2) **Social Services Block Grant (SSBG)**: Increases SSBG funding by \$1 billion over 5 years referenced in Section 107. Provision paid for by Earned Income Tax Credit (EITC) related reforms.

3) **Child Care**: Would amend Section 116 and add \$1 billion over 5 years of funding as part of the Child Care and Development Block Grant (CCDBG). Provision paid for by EITC related reforms.

Contact Names and Phone Numbers: Randy Brandt and Heather MacLean (224-6324)

5

**Smith Amendment to the PRIDE Act**

Short title: Rehabilitative and Barrier Removal Services Extension

**Amendment Description:**

Allow states the option to receive work participation rate credit for an individual whose plan specifies that they have a continuing need for rehabilitative services in order to engage in direct work activities. The amendment permits states the option of continuing to provide rehabilitative services, if needed, beyond six months. To be counted as working recipients must be engaged in additional work activities for at least half the time required to count recipients without disabilities. Eligible individuals must be determined, using a medically acceptable clinical or diagnostic technique, as having a disability that impedes the individual's ability to function in a work setting. To be eligible for the state option state agencies must work collaboratively in assisting the person with disabilities.

Baucus Amendment to the PRIDE Act of 2005

6

STRIKE AND REPLACE ROSALES OFFSET

Short title: Substitute for the Clarification Regarding *Rosales* Child Welfare Case

Description of the Amendment: The Baucus amendment would strike the provision in the Chairman's Mark, Section 401, which is an offset that clarifies current law in response to the Ninth Circuit Court decision, *Rosales vs. Thompson* and replace with review of state agency blindness and disability determinations.

The child welfare provision would have reaffirmed a historic rule that a child is eligible for federal foster care only if the child, while living in the home from which he or she was removed to foster care (the "home of removal"), would have been eligible for Aid to Families With Dependent Children (AFDC) (if the AFDC program were still in effect, and if all other current law criteria are met).

Senator Baucus will replace the stricken provision above with extension of Social Security Administration pre-effectuation review provisions, at a phase-in rate of 25% of the first year and 50% thereafter, for such time as is necessary to offset this expenditure, but not to exceed 10 years.

7

Baucus Amendment #2 to the PRIDE Act of 2005

Cosponsors: Senator Bingaman, Senator Lincoln, Senator Smith, Senator Kerry, Senator Schumer

Short title: Immigrant Children's Health Improvement Act (ICHIA)

Description of the Amendment:

The Baucus amendment would amend title IV (Restricting Welfare and Public Benefits for Aliens) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) to grant States the option of covering eligible legal immigrant pregnant women and children under titles XIX (Medicaid) and XXI (Children's Health Insurance) (SCHIP) of the Social Security Act. This amendment would repeal the 5-year limitation on the eligibility of qualified legal immigrants for federal Medicaid and SCHIP.

Offset: As a placeholder, this amendment is offset by extending customs user fees for the appropriate length of time.

Contact: Alice Weiss, x49280



8

Jeffords Amendment #1 to PRIDE Act

Short Title: Vocational Education Enhancement Amendment

Co-Sponsor: Senator Rockefeller

Description of Amendment:

**Jeffords Amendment #1 would increase the amount of time that vocational education and training can count as a work activity. The amendment would increase the limit from 12 months to 24 months.**

Contact name and phone number: Justin King, 4-5141

9

**Bingaman Amendment to PRIDE Act – #1**  
**Senate Finance Committee**  
**March 8, 2005**

**Sponsor:** Sen. Bingaman

**Purpose:** To replace the revenue offset that reduces the number of taxpayers who currently receive the EITC with the following two revenue offsets:

1. **Tax treatment of inversion transactions.** Replace the revenue offset included in last year's JOBS Act with the language passed by the Finance Committee several times last Congress and by the Senate as part of the JOBS Act that limits the ability of corporations to invert to avoid paying U.S. taxes. Raises \$2.745 billion.
2. **Impose mark-to-market on individual expatriates.** Replace the revenue offset included in last year's JOBS Act with the language passed by the Senate that limits the ability of individual's to expatriate to avoid paying U.S. taxes. Raises \$506 million.

(10)

**Bingaman Amendment to PRIDE Act – #2  
Senate Finance Committee - March 8, 2005**

**Sponsor:** Senator Bingaman

**Cosponsor:** Senator Wyden

**Purpose:** This legislation would provide states with the flexibility they need to help move TANF recipients from welfare to work in the manner they deem most appropriate. TANF is currently the only federally-funded, state-run program of its kind without waiver authority. Medicaid, SCHIP, food stamps, and child support all have waiver authority.

**STATE OPTION TO CONTINUE WAIVERS**

- It would allow any state that is, or was, operating under a waiver of the TANF requirements to continue to operate its TANF program under that waiver. States that have utilized waivers have a proven track record—moving recipients off of welfare, getting better jobs for TANF recipients, reducing poverty, and helping families stay together.

**TANF WAIVER AUTHORITY AVAILABLE TO ALL STATES**

- It would also allow any state to request a waiver of the TANF requirements from the Secretary in order to develop and implement innovative TANF programs.
- Any state may request a waiver of the Federal TANF requirements as long as the state describes:
  - how the waiving of those requirements will improve or enhance achievement of one or more of the TANF purposes;
  - how it will independently evaluate the program under waiver; and
  - the relevant state statutes and regulations, if applicable, that would allow the state to implement the waiver if it were approved by the Secretary.

**RESTRICTIONS**

- The Secretary could not waive the following requirements:
  - General purpose language;
  - Determination of grants to states;
  - Maintenance-of-effort requirements;
  - Civil rights protections;
  - Child care protections; and
  - Non-displacement language.

**BUDGET NEUTRAL**

- This legislation is budget neutral and would not be subject to a budget point of order.

If you have any questions, please contact Michael Yudin at 40163

Bingaman Amendment to PRIDE Act – #3  
Senate Finance Committee  
March 8, 2005



**Sponsor:** Sen. Bingaman

**Purpose:** To clarify that state and local governments may provide health services to immigrants with their own revenue.

The amendment would simply strike the word “health” in Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

Consequently, this amendment would correct a technical but important problem caused during passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1006 (PRWORA). Section 411 of the welfare law reads that state and local governments may not use their own resources to provide non-emergency health services to non-qualified immigrants unless the state has passed new legislation authorizing such expenditures. This provision in that Act has been read by state and local governments with varying interpretations because the same law exempts charitable organizations from conducting immigration screening and there is no enforcement mechanism.

The amendment would eliminate the ambiguity the provision creates, as it relates to health services, by striking the word “health” from section 411 of the welfare law. This clarifies that state and local governments can use their own funds to provide health services (including primary and preventative health and infectious disease services) to undocumented or otherwise unqualified individuals without enacting a new law.

There would be no federal cost associated with this amendment.

**Background**

The ability of state and local governments to provide health services to immigrants has been called into question by section 411 of the welfare act, which prohibits states and localities from providing certain benefits to “not qualified” immigrants unless the state legislature enacts a new law authorizing such expenditures. Additionally, the law creates some ambiguity with respect to services to immigrants who are lawfully in the country, but not “qualified” immigrants.

The amendment strikes the word “health” from section 411 of PRWORA because of the following concerns about the current law:

- Many constitutional scholars believe this current law to be unconstitutional and argue it would not withstand a 10<sup>th</sup> Amendment challenge, as it interferes in state and local governments’ authority to spend their own revenue and control their own legislation processes as they see fit.
- Current law imposes a double-standard on state and local governments because certain federal public health programs are exempt from such a requirement but identical state and local government health programs are potentially affected.
- Current law imposes new legal and administration costs on state and local governments despite the provision having no enforcement mechanism.

12

LINCOLN AMENDMENT #1

Lincoln Amendment #1 to Personal Responsibility and Individual Development for Everyone Act (PRIDE)

Short Title: Rewarding States for Getting Families into Jobs

Description of Amendment: Modify employment credit in Chairman's Mark to provide that states can count all families that leave assistance with jobs toward the employment credit. This amendment would eliminate the cap placed on the employment credit in the Chairman's Mark.

Contact: Lori Neal 224-4737

13

LINCOLN AMENDMENT #2

Lincoln Amendment #2 to Personal Responsibility and Individual Development for Everyone Act (PRIDE)

Short Title: National Teen Pregnancy Prevention Resource Center

Description of Amendment: Senator Lincoln's amendment would authorize a \$5 million appropriation to be spent over five years for a national teen pregnancy prevention resource center to provide technical assistance to state, tribal, local, community and faith-based organizations seeking to reduce rates of teen pregnancy, support parents by equipping them with information and resources to promote and strengthen communication with their children, and assist the entertainment media industry by providing information and by helping the industry develop messages that can prevent teen pregnancy.

Offset: Grant Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income.

Contact: Lori Neal 224-4737

14

AMENDMENT offered by Senator Wyden

COMMITTEE ON FINANCE

Wyden Amendment # 1 to S. Personal Responsibility and Individual Development for Everyone

(NOTE: INCLUDE BILL NUMBER)

**One sentence description of Amendment: The amendment clarifies that for states operating under waivers, the provisions of the PRIDE take effect on the date of enactment.**

**(NOTE: The one sentence description will assist the Committee in preparation of the Amendment list. Please provide this information.)**

**Text of Amendment:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\* Please provide 50 copies of each amendment.**

**NOTE: If the amendment contains multiple pages, please staple each set.**

# **Personal Responsibility and Individual Development for Everyone (PRIDE)**

## **Title I - TANF**

### **Section 101 - State Plans and Performance**

#### *State Plans*

#### *Current Law*

To receive block grant funds, a state must have submitted a TANF plan within the 27-month period that ends with the close of the 1<sup>st</sup> quarter of the fiscal year. This plan must include an outline of the program the state intends to operate to provide assistance to needy families; provide job preparation, work, and support services to enable them to leave the program; and describe how the state will ensure that parents and caretakers receiving assistance engage in work activities (within 24 months of receiving assistance, or earlier at state option). The plan must describe whether the state intends to treat families migrating from another state differently from others (and, if so, how) and whether it intends to provide assistance to non-citizens (and, if so, to provide an overview of aid). It also must establish goals to reduce the rate of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the state. The plan must describe how the state will provide education and training on statutory rape to the law enforcement and educational systems, and it must include a number of certifications (for example, equitable access to Indians and establishment and enforcement of standards against program fraud and abuse). States have the option of including a certification regarding the treatment of individuals with a history of domestic violence.

#### *Chairman's Mark*

The mark requires states to establish and provide in their state plans specific measurable performance objectives for pursuing TANF purposes. They are to describe the methodology the state will use to measure performance in programs funded by TANF and maintenance of effort (MOE) dollars in relation to each objective. In developing the performance measures, states are to consider the criteria used by the Secretary of Health and Human Services (HHS) in establishing performance measures for the employment achievement bonus (workforce attachment and advancement) and with such other criteria related to other (non-work) purposes of the program. The Secretary is to develop performance measures related to the non-work purposes of TANF in consultation with the National Governor's Association, the National Conference of State Legislatures, and the American Public Human Services Association.

The mark specifies that the plan must describe any strategies and programs that the state plans to use concerning employment retention and advancement; reduction of teen pregnancy; services for struggling and noncompliant families, and for clients with special problems;



program integration, including provision of services through the One-Stop delivery system under WIA; and if the state is undertaking any strategies or programs to engage faith based organizations in the delivery of services funded under this part or that relate to section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the document should describe such strategies and programs. It requires state plans to describe how the state intends to encourage equitable treatment of healthy, married, two-parent families under TANF.

The mark also adds to the state plan additional descriptive information about state programs. It requires states to describe in their plans financial and nonfinancial eligibility rules for assistance (including income eligibility thresholds, treatment of earnings, asset eligibility rules, and excluded forms of income), the amount of assistance, and applicable time limits on providing assistance (including exemption and extension policies). It requires state plans to set forth the criteria for counting care of a disabled family member as a work activity. Section 109 of this mark makes caring for a disabled family member a work activity under specified conditions. The mark requires states to describe how they will inform "child-only" families (families without an adult recipient) receiving assistance of the work supports and other assistance for which the family may be eligible. It deletes the requirement to indicate whether the state intends to treat incoming families differently from residents (found unconstitutional) and drops the rule that community service be required from adults who fail to work after two months of aid, unless the governor opts out.

The mark directs the Secretary to develop a proposed Standard State Plan Form for use by states nine months from enactment and requires states, by October 1, 2006 to submit their plans on the standard form. It requires states to make available to the public through an appropriate State-maintained Internet website and through other means that the state deems appropriate several documents: the proposed state plan (with at least 45 days for comment), comments received concerning the plan (or, at the state's discretion, a summary of the comments), and proposed amendments to the plan. It also requires that state plans in effect for any fiscal year be available to the public by the means listed above. States required to renew their state plans between the date of enactment and October 1, 2006 may wait until October 1, 2006 to submit their new plans in the Standard Form.

The mark adds a requirement that tribal governments be consulted about the TANF plan and its service design. It also adds a requirement that states that provide transportation aid under TANF certify that state and local transportation agencies have been consulted in the development of the TANF state plan.

Sections 107, 109, 110, and 113 of the mark contain other state TANF plan provisions. Section 107 requires a state that takes the option to establish an undergraduate post-secondary or vocational education program to describe, in an addendum to the TANF state plan, eligibility criteria that will restrict enrollment in the program to persons whose past earnings indicate they cannot qualify for employment that will make them self-sufficient and who, by enrolling, will be prepared for higher paying occupations in demand in the state. Section 109 permits a state, if it includes in its TANF plan a description of policies for areas of Indian country or an Alaskan native village with high joblessness, to define countable work activities for persons complying with individual responsibility plans and living in these areas. Section 110 requires state plans to outline how the state intends to require parent or caretaker recipients to engage in work or alternative self-sufficiency activities, as defined by the state, and to require recipient families to engage in activities in accordance with family self-sufficiency plans. Section 113 has

provisions to increase the coordination and consultation between states and tribes in developing TANF plans.

### ***Reason for Change***

The Chairman's mark includes provisions to clarify what states are doing to move welfare clients into self sufficiency and to make the plans more meaningful. The Chairman's mark would require states to establish performance objectives and encourage an ongoing review of these objectives while maintaining state flexibility.

### ***Annual Ranking of States' Performance***

#### ***Current Law***

The Secretary of HHS is required to annually rank states on the success of their welfare to work programs. The ranking considers state performance on placing recipients into long-term private sector jobs; reducing the overall welfare caseload; and, when a practical method for calculating information becomes available, diverting individuals from formally applying for and receiving assistance. In this ranking, the Secretary is to take into account the average number of poor children in the state.

#### ***Chairman's Mark***

The mark requires the Secretary, in consultation with states, to develop uniform performance measures designed to evaluate TANF- and MOE-funded state programs. It modifies the criteria for the Secretary's annual ranking of the success of states' welfare-to-work programs to include placement of assistance recipients in unsubsidized employment, success of recipients in retaining employment and increase in wages, and the degree to which recipients have workplace attachment and advancement. It requires the Secretary's ranking to consider the number of poor children and child poverty rate in each state.

#### ***Reason for Change:***

The mark updates the factors used in the annual ranking of states on the success of their programs.

### **Section 102 -- Family Assistance Grants**

#### ***Current Law***

The law appropriated \$16.5 billion annually for family assistance grants to the states and the District of Columbia (D.C.) for FYs1997-2002. It also appropriated \$77.9 million annually for family assistance grants to the territories (and, within overall ceilings, such sums as needed for matching grants to the territories). Family assistance grants have been extended at FY2002 funding levels through March 31, 2005 by a series of temporary extensions. Basic state grants are based on federal expenditures for TANF's predecessor programs during FY1992 through FY1995.

#### ***Chairman's Mark***

The mark appropriates family assistance grants, at current levels, for the states, the District of Columbia, and the territories for fiscal years 2006 through 2010. The mark also appropriates matching grants for the territories for fiscal years 2006 through 2010.

### ***Reason for Change***

(No change)

## **Section 103 – Promotion of Family Formation and Healthy Marriage**

### ***Current Law***

The purposes of TANF include encouraging the formation and maintenance of two-parent families, ending the dependence of needy parents on government benefits by promoting . . . marriage, and reducing the incidence of out-of-wedlock pregnancies. The law established a bonus (up to \$100 million annually) for 5 jurisdictions with the greatest percentage decrease in nonmarital birth ratios and a decline from 1995 levels in abortion rates.

### ***Chairman's Mark***

The mark repeals the bonus for reduction of the illegitimacy ratio. It appropriates \$100 million a year for five years (FYs 2006-2010) for competitive grants (50 percent matching rate) to states, Indian tribes, and tribal organizations to develop and implement innovative programs to promote and support healthy, married, two-parent families and to encourage responsible fatherhood. Grant and matching funds must be used to support any of the following: public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health; education in high schools on the importance of healthy marriages and characteristics of other healthy relationships experienced throughout life, including the importance of grounding relationships in mutual respect; voluntary marriage education, marriage skills, and relationship skills programs, which may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married expectant and recent mothers and fathers; voluntary pre-marital education and marriage skills training for engaged couples and for couples or persons interested in marriage; voluntary marriage enhancement and marriage skills training programs for married couples; voluntary divorce reduction programs that teach relationship skills; voluntary marriage mentoring programs which use married couples as role models and mentors; and programs to reduce the marriage disincentive in means-tested aid programs, if offered in conjunction with any activity described above. The mark exempts marriage promotion grants from the general rules governing use of TANF funds (Section 404 of the Social Security Act), but not from the percentage cap on administrative costs. To be eligible for a grant, applicants must consult with domestic violence organizations that have demonstrated expertise working with survivors of domestic violence in developing policies, procedures, programs and training necessary to appropriately address domestic violence in families served by programs and activities funded through the grant; describe in their applications how their proposed programs or activities will deal with issues of domestic violence; establish protocols for helping identify instances or risks of domestic violence and specify procedures for making service referrals and providing protections and appropriate assistance; and what they will do, to the extent relevant, to ensure that participation in the programs is voluntary and to inform potential participants that participation is voluntary.

The mark requires the Secretary of HHS to submit a biannual report to Congress, providing a detailed description of the programs and activities funded by the grants and how they address domestic violence.

The mark requires each State, tribe, or tribal organization that carries out marriage promotion activities to provide the Secretary of HHS with an assurance that TANF assistance recipients who elect to participate in these activities are informed that participation is voluntary; that the recipient may disenroll from such programs or activities; and that there be a process that provides recipients who withdraw from or fail to participate in marriage promotion activities to be reassigned to other activities. There is no sanction for failure to participate in marriage promotion activities. The state may reassign TANF recipients at any time to other activities in accordance with universal engagement requirements (See Section 110).

The mark provides that marriage promotion funds appropriated for each of fiscal years 2005 through 2010 shall remain available to the Secretary until spent. The mark provides that TANF funds can be used as all or part of the required state match for marriage promotion grants, but that these federal funds cannot count towards a state's MOE. The mark also includes conforming language relative to the fourth purpose of TANF, specifying that it is to encourage the formation and maintenance of healthy, two-parent married families and to encourage responsible fatherhood.

The mark also authorizes \$10 million annually for FY2006 through FY2010 for the Secretary of HHS to develop and implement programs designed to address domestic violence as a barrier to healthy relationships, marriage, and economic security. Grants, contracts, and interagency agreements shall provide training for caseworkers administering TANF, technical assistance, the provision of voluntary services for victims of domestic violence, and activities related to the prevention of domestic violence. Funding for these programs may not be diverted from existing domestic violence prevention programs.

***Reason for Change:***

Two of the four original purposes of PRWORA are directly related to ending out-of-wedlock births and encouraging the formation and maintenance of two-parent families. The bonus to reduce out of wedlock births was initially developed to enhance these purposes. This bonus has not proven to be an effective mechanism for motivating state action. A correlation between state action and a reduction in out of wedlock births and family formation has not been established.

The Chairman's mark would redirect the funding to address the underlying purposes of PRWORA. The Chairman's mark would provide optional grants to states to explore innovative and creative approaches to promote healthy family formation activities. The Chairman's mark stipulates that participation in these programs is voluntary and that to be eligible for a grant applicants must consult with domestic violence organizations that have demonstrated expertise working with survivors of domestic violence in developing policies, procedures, programs and training necessary to appropriately address domestic violence in families served by programs and activities funded through the grant; describe in their applications how their proposed programs or activities will deal with issues of domestic violence; establish protocols for helping identify instances or risks of domestic violence and specify procedures for making service referrals and providing protections and appropriate assistance; and what they will do, to the

extent relevant, to ensure that participation in the programs is voluntary and to inform potential participants that participation is voluntary.

The Chairman's mark also includes a provision (in Section 114) which would redirect a portion of the funds for research and demonstration programs and technical assistance related to healthy family formation activities. These funds would be in addition to grants to states for healthy family formation activities. Currently, there is a 25 year body of research related to work activities and welfare. The Chairman's mark would encourage a focus on research centered on marriage and family assistance so that states can learn from rigorous evaluations of activities to promote marriage and family formation.

## **Section 104 – Supplemental Grant for Population Increases in Certain States**

### ***Current Law***

The law provides supplemental grants for (17) states with exceptionally high population growth during the early 1990s, benefits lower than 35% of the national average, or a combination of above-average growth and below-average AFDC benefits. Grants were authorized for a total of \$800 million over FYs 1998 through 2001, and annual grants grew from \$79 million to \$319.5 million over this period. Congress froze grants at the fiscal year 2001 level when it extended supplemental grants for FYs 2002-2005.

### ***Chairman's Mark***

The mark extends supplemental grants for the 17 states that currently receive them at their FY 2001 level, for FYs 2006 through 2009.

### ***Reason for Change***

The Chairman's mark extends the supplemental grant program for certain states.

## **Section 105 – Bonus to Reward Employment Achievement**

### ***Current Law***

The Secretary of HHS, in consultation with the National Governors Association (NGA) and the American Public Human Services Association (APHSA) was required to develop a formula for measuring state performance relative to block grant goals. Awards for performance years 1998-2000 were based on work-related measures (and were paid to 38 jurisdictions). For later years, non-work measures – including food stamp and Medicaid coverage of low-income families – were added. States can receive a bonus based on their absolute score in the current (performance) year and/or their improvement from the previous year, but the bonus cannot exceed 5% of the family assistance grant. \$200 million per year was available for performance bonuses, for a total of \$1 billion between FYs 1999 and 2003. Bonuses were awarded in FY2004 under TANF temporary extension legislation.

### ***Chairman's Mark***

The mark appropriates \$600 million for FYs 2006 through 2011 for bonuses to states that qualify as "employment achievement" states by meeting standards to be developed by the

Secretary in consultation with the states. Bonuses are to average \$100 million per year. The mark specifies that the employment achievement formula is to measure workplace attachment and advancement of assistance recipients and, if the Secretary determines it is possible, those diverted from assistance. It caps a state's bonus at 5% of its family assistance grant. For FYs 2005 and 2006, the employment achievement bonus may be based on three components of the repealed high performance bonus – job entry rate, job retention rate, and earnings gain rate. The mark makes Indian tribes eligible for the bonus, sets aside 2% of bonus funds for them, and directs the Secretary to consult with tribes in determining criteria for awards to them.

Section 702 of the mark also reduces the FY2005 High Performance Bonus from \$200 million to \$100 million.

### ***Reason for Change***

The Chairman's mark provides for states to continue their successful efforts to move welfare recipients into good jobs. States have directed considerable resources into moving welfare recipients into meaningful employment. The Chairman's mark would continue to provide incentives for states to focus on employment achievement and would continue the policy of rewarding states for doing so. The Chairman's mark would preserve the concept of the High Performance Bonus focused on employment achievement.

### **Section 106 – Contingency Fund**

#### ***Current Law***

The TANF law established a \$2 billion contingency fund for matching grants at the Medicaid matching rate (which ranges from 50% to 77%) to "needy" states that expect during the fiscal year to spend under the TANF program (not counting child care) 100% of their FY1994 level of spending on TANF-predecessor programs (not counting child care). States can access the contingency fund by meeting one of two "needy" state triggers: 1) an unemployment rate for a 3-month period that is at least 6.5% and at least 10% higher than the rate for the corresponding period in either of the two preceding calendar years; or 2) a food stamp caseload increase of 10% over the FY 1994-1995 level (adjusted for the impact of immigrant and food stamp constraints in the 1996 welfare law). Contingency payments for any fiscal year are limited to 20% of the state's base grant, and a state can draw down no more than 1/12 of its maximum annual contingency fund amount in a given month. Under a final reconciliation process, a state's federal match rate (for drawing down contingency funds) is reduced if it received funds for fewer than 12 months in any year.

#### ***Chairman's Mark***

The mark appropriates such sums as are needed for contingency fund grants, up to \$2 billion over 5 years, FYs 2006-2010. It eliminates the requirement that states spend 100% of their historic level to qualify for contingency funds (instead applying the TANF MOE, 75%-80%). It entitles states to a contingency fund grant reflecting costs of TANF caseloads when they are "needy" under a revised definition. To trigger as needy: (a) a state must have an increase of 5 percent in the monthly average unduplicated number of families receiving assistance under its TANF program in the most recently concluded 3-month period with data, compared with the corresponding period in either of the two most recent preceding fiscal years; (b) the TANF caseload increase must be due, in large measure, to economic conditions rather

than state policy changes, and (c) for the most recent three-month period with data, the average rate of seasonally adjusted total unemployment must be at least 1.5 percentage points or 50 percent higher than in the corresponding period in either of the two most recent preceding fiscal years; or, for the most recent 13 weeks with data, the average rate of insured unemployment must be at least 1 percentage point higher than in the corresponding period in either of the two most recent fiscal years; or, for the most recently concluded 3-months with national data, the monthly average number of food stamp recipient households, as of the last day of each month, exceeds by at least 15 percent the corresponding caseload number in the comparable period in either of the two most recent preceding fiscal years, provided the HHS Secretary and the Secretary of Agriculture agree that the increased caseload was due, in large measure, to economic conditions rather than to policy change. The mark provides that a state that initially qualifies as needy because of its TANF caseload plus its food stamp caseload shall continue to be considered needy as long as the state meets the original qualifying conditions. A state that initially qualifies as needy because of its TANF caseload plus its total or insured unemployment rate shall not trigger off until its rate falls below the original qualifying level.

The contingency fund grant is based on the maximum cash benefit level for a family of 3 persons (if the state has more than one maximum cash benefit level, the grant is based on the maximum benefit for the largest number of 3-person families) and is payable for TANF caseload increases above 5 percent. The grant equals the state's federal Medicaid matching rate times the benefit cost of an increase in the TANF family caseload above 5 percent in the most recently concluded 3-month period with data, compared with the corresponding period in either of the two most recent preceding fiscal years. A state's total contingency grant cannot exceed 10 percent of its family assistance grant. To receive a contingency fund grant, a state must have spent 70 percent of its TANF grants (excluding welfare-to-work funds from the Department of Labor). Unexpended balances are the total amount of TANF grants not yet spent by the state as of the end of the preceding fiscal year minus current year expenditures through the end of the most recent quarter that exceed the pro rata share of the current fiscal year TANF grant. The mark repeals the fiscal penalty for failure of a state that receives contingency funds to maintain 100% of its historic spending level (MOE), but provides that a state shall not be eligible for a contingency fund grant unless its MOE spending equals 75% (80%, if it fails work participation rates).

The mark also sets aside \$25 million from the contingency fund for payment to tribes with approved tribal family assistance plans operating during periods of economic hardship. The Secretary of HHS, in consultation with the tribes, is required to develop the criteria for access by tribes to the fund.

### ***Reason for Change***

Because of a "super" MOE provision in PRWORA, states have been unable to access contingency funds in the manner in which they were intended in times of economic downturn. The Chairman's mark would liberalize the contingency fund so that states are better able to draw down those dollars.

### **Section 107 – Use of Funds**

#### ***Carryover Funds***

#### ***Current Law***

The law permits states or tribes to use TANF funds received for any fiscal year for "assistance" in any later year, without fiscal year limitation. Regulations define assistance as ongoing aid for basic needs, plus supportive services such as child care and transportation for families who are not employed.

### ***Chairman's Mark***

The mark permits carryover of TANF funds granted to the state or tribe for any fiscal year to provide any benefit or service under the state or tribal TANF program without fiscal year limitation. The mark also allows a state or tribe to designate a portion of the TANF grant as a contingency reserve, which may be used without fiscal year limitation, to provide any benefit or service. If the state or tribe designates reserve funds, it must include the amount in its annual report. Additionally, the mark would permit states to designate an amount of unused dollars in a contingency reserve fund. Section 117 of the mark revises the definition of assistance.

### ***Reason for Change***

Currently, carry over funds can be spent only on cash assistance. The Chairman's mark would allow carry over funds to be spent on any activity authorized under PRWORA, including child care. This provides additional flexibility for the states. Permitting states to designate unused funds as a contingency reserve clarifies that, while unspent, these funds have been earmarked for purposes associated with the legislation.

### ***Social Services Block Grant Transfers***

#### ***Current Law***

The original 1996 welfare reform law provided that states could transfer up to 10% of their TANF grants to the Social Services Block Grant (Title XX). P.L. 105-178 (Transportation Equity Act for the 21st Century) reduced funding for the Social Services Block Grant and called for the transfer authority from TANF to SSBG to be reduced to 4.25% of the block grant, effective FY2001. However, annual appropriation bills through FY2005 have superceded, maintaining the 10% transfer limit for each year.

#### ***Chairman's Mark***

The Committee mark restores the transferability of TANF funds to SSBG to 10%.

#### ***Reason for Change***

This increases state flexibility for assisting low-income families.

### ***Post-Secondary Education Option ("Parents as Scholars")***

#### ***Current Law***

TANF permits states to use TANF funds in "any manner reasonably calculated" to achieve the goals of TANF, including reducing ending the dependence of needy parents through job preparation. Post-secondary education is an allowable use of TANF funds, though



participation in such education is generally limited to vocational education countable for only up to 12 months.

### ***Chairman's Mark***

The mark permits states to use TANF and MOE funds to establish an undergraduate 2- or 4-year degree postsecondary education or vocational educational program for students in families receiving TANF assistance, who formerly received assistance, or needy parents who are eligible for TANF services. The program may provide the following services: child care, transportation, payment for books and supplies, and other services provided by the state to ensure coordination and lack of duplication.

The mark requires states that opt to run a postsecondary education program to file an addendum with their TANF state plan with the applicable eligibility requirements of the program. Eligibility requirements must be designed to limit the program to individuals whose past earnings indicate that they cannot qualify for employment that pays enough to allow them to obtain self-sufficiency (as defined by the state) and for whom enrollment in the program will prepare individuals for higher paying occupations in demand in the state.

The mark would permit states to count the participation of TANF assistance recipients in the post-secondary program, with participation capped at 10% of a state's TANF caseload. There are two options for counting hours of participation for students in the post-secondary education program. Under the first option, total hours would be the sum of those in the priority activities in current law; in work-study, practicums, internships, clinical placement, laboratory or field work, or other activities that would enhance employability in the recipient's field of study; and study time. These hours would be counted toward the participation standards (e.g. the 34-hour requirement), and the state would be given either full (maximum counted as 1 family) or partial credit for that family's participation. Under the second option, a student's family would be counted as a fully participating (one family) if, in addition to complying with the full-time educational participation requirement of the program, the student is participating in TANF priority work activities and work study, practicums, etc. for at least the following number of hours: 6 hours in the first year, 8 hours in the second year, 10 hours in the third year, and 12 hours in the fourth and later years.

The rules for this program apply only for states that opt to operate it and only for students participating in the program. These rules do not limit the discretion states otherwise have under TANF to support postsecondary or vocational education for needy parents.

### ***Reason for Change***

The mark permits a subset of recipients to benefit from a postsecondary education strategy while maintaining an overall work orientation. The option is modeled on a Maine program known as "Parents as Scholars."

## **Section 108 – Repeal of Federal Loan for State Welfare Programs**

### ***Current Law***

The law provides a \$1.7 billion revolving and interest-bearing federal loan fund for state TANF programs.

### ***Chairman's Mark***

The mark repeals the loan fund.

### ***Reason for Change***

The fund did not function effectively.

## **Section 109 – Work Participation Requirements**

### ***Participation standards.***

### ***Current Law***

States must have a specified percentage of their adult recipients engaged in creditable work activities. Since FY 2002 the participation standard has been 50% for all families (and since FY 1999 it has been 90% for the two-parent component of the caseload). Participation standards are reduced by a caseload reduction credit (below). In tribal family assistance programs, work participation standards are set by the HHS Secretary, with the tribe's participation.

### ***Chairman's Mark***

The mark increases the all-family standard from the current 50% level to the following levels: FY 2007, 55%; FY 2008, 60%; FY 2009, 65%; and FY 2010 and thereafter, 70%. The mark eliminates the separate rate for two parent families. The mark also forgives penalties for states' failure to meet the two-parent work requirement in F2002 through FY2004.

### ***Reason for Change***

Currently, many states have an effective participation rate of 0% due to the caseload reduction credit. The Chairman's mark increases work participation requirements to move towards universal engagement policies under which states actively engage all welfare recipients in moving towards self sufficiency.

### ***Calculation of participation rates***

### ***Current Law***

A state's monthly participation rate, expressed as a percentage, equals (a) the number of all recipient families in which an individual is engaged in work activities for the month, divided by (b) the number of recipient families with a recipient who is an adult or minor head of household, but excluding families subject that month to a penalty for work refusal (provided they have not been penalized for more than 3 months), single-parent families with children under 1 (limited to 12 months in a lifetime) and, at state option, families in tribal family assistance programs.

### ***Chairman's Mark***

The mark permits a state to exclude all families from work participation calculations during their first month of TANF assistance and to exclude families with a child under age 1 (subject to a 12 month in a lifetime limit) from work requirements and calculations of work participation rates on a case-by-case basis.

***Reason for Change***

The initial assessment and development of a family self sufficiency plan may take some time, during which the family may not be participating in countable activities. In addition, the mark would ensure that states receive credit for families with young children who are engaged in countable activities

*Caseload reduction credit.*

***Current Law***

For each percent decline in the caseload from the FY 1995 level (not attributable to policy changes), the work participation standard is lowered by 1 percentage point. (In FY 2003, caseload reduction credits cut required work rates of 20 states to zero.)

***Chairman's Mark***

The mark replaces the current caseload reduction credit with an employment credit. In a separate provision, it places the same limits on the extent to which any employment, caseload reduction, or other credit could reduce a state's required participation rate. Under these limitations, credits could not exceed 40 percentage points for fiscal year 2006; 35 percentage points for fiscal year 2007; 30 percentage points for fiscal year 2008; 25 percentage points for fiscal year 2009; and 20 percentage points for fiscal year 2010 or thereafter.

***Reason for Change***

PRWORA included a credit states could take for purposes of establishing their work participation rate based on a state's caseload reduction. Because caseloads have fallen so dramatically, many states now have an effective participation threshold of 0. The cap on the employment credit ensures that while policy priorities relative to encouraging states to work to move clients into good paying jobs are achieved, participation rates are not undermined by the credit.

*Employment credit*

***Current Law***

*No provision*

***Chairman's Mark***

The mark establishes a percentage point credit against the work participation standard (subject to the limits described immediately below). Essentially, the credit equals the percentage of TANF families who leave ongoing cash assistance with a job. It is calculated by dividing (a) twice the quarterly average unduplicated number of families (excluding child-only

families) that received TANF assistance during the preceding fiscal year but who ceased to receive TANF – and did not receive cash assistance from a separate state-funded program– for at least two consecutive months following case closure during the applicable period (most recent 4 quarters with data) and were employed during the calendar quarter immediately after leaving TANF by (b) the average monthly number of families (again excluding child-only families) who received cash payments under TANF during the preceding fiscal year. At state option, calculations could include in the numerator: (1) twice the quarterly average number of families that received non-recurring short term benefits rather than ongoing cash and who earned at least \$1,000 in the quarter after receiving the benefit, and (2) twice the quarterly average number of working families (earned at least \$1,000 in the quarter) that included an adult who received TANF-funded substantial child care or transportation assistance. TANF-funded child care includes child care funded through transfers from TANF to the Child Care and Development Block Grant (CCDBG). If both these options were taken, the denominator would be increased by twice the number of families that received non-recurring short-term benefits during the year and by twice the quarterly average number of families with an adult who received substantial child care or transportation assistance. In consultation with directors of state TANF programs, the Secretary is to define substantial child care or transportation assistance, specifying a threshold for each type of aid a dollar value or a time duration. The definition is to take account of large one-time transition payments.

Extra credit – as 1.5 families – would be given to a family whose earnings during the preceding fiscal year equaled at least 33 percent of the state’s average wage.

Employment credits or caseload reduction credits or a combination of the two could not exceed 40 percentage points for fiscal year 2006; 35 percentage points for fiscal year 2007; 30 percentage points for fiscal year 2008; 25 percentage points for fiscal year 2009; and 20 percentage points for fiscal year 2010 or thereafter. (As a result, credits could not cut effective work participation rates below these floors: 10 percent for fiscal year 2006, 20 percent for fiscal year 2007; 30 percent for fiscal year 2008; 40 percent for fiscal year 2009, and 50 percent for fiscal year 2010 and thereafter.)

The mark requires the Secretary to issue regulations to implement the employment credit. It also requires the HHS Secretary to use information in the National Directory of New Hires to calculate state employment credits. If the TANF leaver’s employer is not required to report new hires, the Secretary must use quarterly wage information submitted by the state. To calculate employment credits for families who received non-recurring short term benefits and for those who received substantial child care and transportation assistance, the Secretary is to use other required data. The mark requires the Secretary by August 31 each year to determine – and to notify each state of – the amount of the employment credit that will be used in calculating participation rates for the immediately succeeding fiscal year.

States would continue to receive the current law caseload reduction credit through FY2007 (subject to the cap, described above). In FY2008, states would be given the option to either take the employment credit or have their participation standard reduced by a credit based  $\frac{1}{2}$  on the current law caseload reduction credit and  $\frac{1}{2}$  based on the employment credit. The employment credit would apply to all states beginning in FY2009.

“The Lincoln Employment Credit Study.” The mark also provides that the Secretary of HHS will report to the Senate Finance and House Ways and Means Committees findings from a study, known as “The Lincoln Employment Credit Study” examining the policy implications of

modifying the design of the employment credit. The "The Lincoln Employment Credit Study" will include a discussion of the implications of crediting the states for families receiving TANF-funded work supports (child care and transportation aid), crediting families diverted from the rolls who become employed, and potential different thresholds for the "good jobs" bonus. This "The Lincoln Employment Credit Study" is due July, 2008.

### ***Reason for Change***

The current caseload reduction credit contains a flawed incentive under which a state may receive credit toward the work participation requirements for families who leave assistance but do not become employed. The mark substitutes an employment credit for families that leave assistance for gainful employment.

### ***Work activities***

#### ***Current Law***

The law lists 12 activities that can be credited toward meeting participation standards. Nine activities have priority status: unsubsidized jobs, subsidized private jobs, subsidized public jobs, work experience, on-the-job training; job search (6 weeks usual maximum, with no more than 4 consecutive weeks), community service, vocational educational training (12 month limit), and providing child care for TANF recipients in community service. Three non-priority activities are countable: job skills training directly related to employment; and (for high-school dropouts only) education directly related to work and completion of secondary school. The 6-week time limit on countable job search is doubled during high unemployment. No more than 30% of persons credited with work may consist of persons engaged in vocational educational training and teen parents without high school diplomas who are deemed to be engaged in work through education. In tribal family assistance programs, work activities are set by the HHS Secretary, with the tribe's participation.

#### ***Chairman's Mark***

The mark lists 19 activities that can be credited toward meeting participation standards. It retains the 12 work activities in current law, with the 9 priority activities considered "direct work" activities, adds one new nonpriority activity, and lists six additional "qualified activities" that may be counted under certain conditions (see below). The new nonpriority activity (countable after the family meets minimum hours requirements in direct work activities, see below) is marriage education, training, and conflict resolution. The qualified activities are postsecondary education; adult literacy programs or activities, including participation in a program to increase proficiency in the English language; substance abuse counseling or treatment; programs or activities designed to remove work barriers, as defined by the state; programs or activities authorized under a waiver approved for any state after August 22, 1996 (regardless of the expiration date of the waiver); and financial literacy training (limited to 5 hours per week). The mark deletes the requirement that only four consecutive weeks of job search can be counted within the normal 6 week limit. The mark permits a state to define countable work activities for persons complying with a family self sufficiency plan and living in areas of Indian country or an Alaskan native village with high "joblessness." To qualify for this option, the state must include in its TANF plan a description of its policies for these areas.

### ***Reason for Change***

The mark includes activities proposed to maintain all the flexibility of current law and adds new flexibility in countable activities. Expanding the list of allowable activities would permit states to provide up-front job preparedness for families who need specialized services. It would allow states to engage recipients in short-term "barrier removal" activities. Many states have such programs and some have done these under waivers. Hours in such activities would now count toward the federal participation standards.

*Required work hours.*

***Current Law***

Generally, to count toward the all-family rate, participation of 30 hours (20 hours in priority work activities) is required. For two-parent families the standard is 35 hours (30 in priority work activities), but increases to 55 hours (50 in priority activities) if the family receives federally-subsidized child care. Teen parents are deemed to meet the weekly hour participation standard by maintaining satisfactory attendance in secondary school (or the equivalent in the month) or by participating in education directly related to employment for an average of 20 hours weekly. In tribal family assistance programs, required work hours are set by the HHS Secretary, with the tribe's participation. [Note: except for teen parents, single parents with a child under 6, and participants in a tribal program with different hour requirements, families must work an average of at least 30 hours weekly to be counted as working.]

***Chairman's Mark***

The mark adopts a standard work week of 24 hours for a single parent with a child under age 6; 34 hours for a single parent with a child over 6; 39 hours for a two-parent family (but 55 hours for a two-parent family that receives child care). The calculation of weekly work hours is made by dividing monthly hours of work by 4. Families meeting the standard are counted as 1.0 family in calculating the state's work participation rate. Extra credit is given for work by a single parent family (with or without a pre-schooler) above 34 hours, and by two-parent families above their 39- and 55-hour standards. All schedules provide partial credit -- provided sufficient hours are spent in direct work activities -- for hours below the standard, as follows:

Partial/full/ extra work credit	Single-parent family		Two-parent family	
	Child under 6	No child under 6		With child care
.675 of a family	20-23 hours	20-23 hours	26-29 hours	40-44 hours
.75 of a family	--	24-29 hours	30-34 hours	45-50 hours
.875 of a family	--	30-33 hours	35-38 hours	51-54 hours
1.0 family	24-34 hours	34 hours	39 hours	55+ hours
1.05 family	35-37 hours	35-37 hours	40-42 hours	56-58 hours
1.08 family	38 + hours	38+ hours	43 + hours	59+ hours

Generally, to receive any credit for hours at or below 24, a single-parent family must engage for all of these hours in direct work activities --unsubsidized job, subsidized private job, subsidized public job, work experience, on-the-job training; job search and job readiness assistance, community service, vocational educational training, and providing child care for TANF recipients in community service. For work credit, a two-parent family generally must spend all hours at or below 34 weekly in direct work activities (50 hours if the family receives federally funded child care and has no disabled member). Once a family has reached the work hours threshold in direct work activities, additional hours in unlimited job search or vocational educational training or any of the six "qualified activities" would be counted.

However, for three months in any 24-month period, a state may give work credit for any hours spent in one of the six "qualified activities"-- (1) postsecondary education; (2) adult literacy programs or activities, including those to increase proficiency in the English language; (3) substance abuse counseling or treatment; (4) programs or activities designed to remove work barriers, as defined by the state; (5) programs or activities authorized under a waiver approved for any state after August 22, 1996; and (6) financial literacy training (for up to 5 hours per week). These "qualified activities" may be combined with direct work activities to meet hours requirements. An additional 3 months (within the 24 month period) would also be counted for recipients participating in adult literacy programs (including programs to increase proficiency in the English language) or recipients participating in a service if the recipient is certified by a qualified medical, mental health, or social services professional as having a physical or mental disability, substance abuse problem, or other problem that requires a rehabilitative service.

A parent who provides continuous care for a child or dependent with a physical or mental impairment may receive credit as engaged in work under certain conditions. The qualifying conditions include: the state must determine that the child or dependent has an impairment that requires that he/she have substantial continuous care, that the parent is the only reasonable provider of the care, that the recipient is in compliance with her self-sufficiency plan. The state must conduct regular periodic evaluations of the recipient's family and regularly update her self-sufficiency plan. (Section 101 requires state TANF plans to set forth criteria for

deeming the parent providing care for a disabled child or dependent to be meeting all or part of that family's work requirements.)

The mark retains the (30 percent) limitation on persons who may be credited with work by virtue of vocational educational training (countable toward the direct work hours requirement) or (if teen parents) by high school attendance or work directly related to education. As discussed above, vocational education done as a supplementary activity for families meeting the priority hours threshold is not subject to the 30 percent limitation. Teen parents who maintain satisfactory secondary school attendance or participate in education directly related to work for an average of 20 hours weekly are deemed to count as one family.

### ***Reason for Change***

The Chairman's mark recognizes that the success achieved by TANF and Work First programs are a result of a sustained emphasis on adult attachment to the workforce. The mark attempts to build on the success of the past by increasing work and reducing the welfare rolls. Successes thus far come primarily from experiments and initiatives undertaken at the state level under waivers or TANF to move recipients from welfare-to-work. The mark establishes clearly defined goals and benchmarks for hours of participation.

Under the mark, states would have flexibility to engage single moms with pre-schoolers at fewer hours than the overall "standard" and to offset this by engaging others full time.

The Chairman's mark would expand the list of activities that count after a recipient has engaged in core work activities for 24 hours – allowing states to count "supplemental" hours spent in post-secondary education, vocational education beyond 1 year; and other education and barrier removal activities.

It would encourage states to provide post-employment activities, particularly education or additional job search, for working recipients to help recipients enhance their job skills and training to advance and leave welfare.

The Chairman's mark would provide a "Tiered Approach" to calculating hours of work activity counted towards meeting the participation rate.

"Partial credit" recognizes that some recipients might not meet the full-time standard; for example, persons in unsubsidized employment might be employed part-time or part of the month.

The mark recognizes that parents who must engage in substantial, continuous care of a disabled child or family member are engaged in meaningful activity. States should work with these families to monitor their progress and development.

### **Section 110 – Universal Engagement and Family Self Sufficiency Plan Requirements; Other Prohibitions and Requirements**



*Universal engagement.*

***Current Law***

State plan must require that a parent or caretaker engage in work (as defined by the state) after, at most, 24 months of assistance. (This requirement is not enforced by a specific penalty.)

***Chairman's Mark***

The mark deletes the 24-month work trigger provision. It requires that state plans outline how they intend to require adult or minor heads of households to engage in work or alternative sufficiency activities, as defined by the state – while observing the prohibition against penalizing work refusal by a single parent of a preschool child if she has a demonstrated inability to obtain needed child care for specified reasons. It also requires state plans to outline how they intend to require families to engage in activities according to their self-sufficiency plans. The mark allows, but does not require, states to develop self-sufficiency plans for child-only cases.

***Reason for Change***

By requiring states to outline how they intend to engage in self-sufficiency efforts all TANF families – not just those included in the work participation rate – the mark would promote movement of all families from dependence to self-sufficiency.

***Family self-sufficiency plan requirements***

***Current Law***

Within 30 days, states must make an initial assessment of the skills, work experience, and employability of each recipient 18 or older or those who have not completed high school. States may, but need not, establish an individual responsibility plan for each family.

***Chairman's Mark***

The mark requires states to make an initial screening and assessment, in a manner they deem appropriate, of the skills, work experience, education, work readiness, work barriers and employability of each adult or minor head of household recipient who has attained age 18 or who has not completed high school and to assess, in a manner they deem appropriate, the work support and other assistance and family support services for which families are eligible and the well-being of the family's children and, where appropriate, activities or resources to improve their well being. The mark requires states, in a manner they deem appropriate, to establish a self-sufficiency plan for each family with an adult recipient or minor head of household recipient. (States may establish self-sufficiency plans describing services only for child-only cases.) Required plan contents: activities designed to assist the family to achieve their maximum degree of self-sufficiency; requirement that the recipient participate in activities in accordance with the plan; supportive services that the state intends to provide; steps to promote child well-being and, when appropriate, adolescent well-being; and information about work support assistance for

which the family may be eligible (such as food stamps, Medicaid, SCHIP, federal or state funded child care - /including that provided under the Child Care and Development Block Grant and the Social Services Block Grant/, EITC, low-income home energy assistance, WIC, WIA program, and housing assistance). The state must monitor the participation of adults and minor child household heads in the self-sufficiency plans and, using methods it determines appropriate, regularly review the family's progress and revise the plan when appropriate. Before imposing a sanction against a family for failing to comply with a TANF rule or requirement of the self-sufficiency plan, the state must, to the extent deemed appropriate by the state, review the plan and make a good faith effort (defined by the state) to consult with the family.

States must comply with self-sufficiency plan requirement within one year after enactment (for families then receiving TANF). For families not enrolled on the date of enactment, the deadline for self-sufficiency plans is the later of: 60 days after the family first receives assistance on the basis of its most recent application, or 1 year after enactment. The mark provides that nothing in the self-sufficiency plan subsection or amendments made shall be construed to establish a private right or cause of action against a state for failure to comply with the provisions or to limit claims that might be available under other federal or state laws. The Government Accountability Office is required to submit a report to the Ways and Means and Finance Committees evaluating the implementation of the universal engagement provisions of the bill.

The mark adds failure to comply with family self-sufficiency plan requirements to the penalty paragraph regarding failure to comply with minimum participation standards (see above for penalty schedule). For fiscal year 2007 and later, it provides that the penalty shall be based on the degree of substantial noncompliance. The Secretary must take into account factors such as the number or percentage of families for whom a plan is not established in a timely fashion, the duration of delays, whether the failure is isolated and nonrecurring, and the existence of systems to ensure establishment and monitoring of plans. The Secretary may reduce the penalty if the noncompliance is due to circumstances that made the state needy under the contingency fund definition or due to extraordinary circumstances such as a natural disaster or regional recession.

### ***Reason for Change***

The Chairman's mark would require states to make families on assistance aware of additional work supports and assistance for which they are eligible. The Chairman's mark adds a penalty provision to enforce the new requirement that states develop family self-sufficiency plans for recipients, while stipulating that states will not be subject to penalty unless they are in substantial noncompliance with the law.

### ***Transitional compliance for teen parents***

### ***Current Law***

The law makes an unmarried teenage parent (under age 18) ineligible for federally funded TANF assistance if she has a minor child at least 12 weeks old and no high school

diploma unless she participates in a high school diploma program (or equivalent) or in an alternative educational or training program approved by the state. To receive TANF, she also must live with her child in an adult-supervised setting (a residence maintained by her parent, legal guardian, or other adult relative). If the teen parent has no available relative or guardian with whom to live, or if the state determines that the relative's home might be harmful, the state must provide, or assist the teen mother in locating, a second chance home, maternity home, or other appropriate adult-supervised living arrangement. TANF funds may be used to help operate second-chance homes.

### ***Chairman's Mark***

The mark would allow 60 days for a teen parent to comply with these requirements – permitting states to give federally funded TANF for up to 60 days to a teen parent not yet participating in education or training or not yet living in an adult-supervised arrangement. It also would add to allowable living arrangements transitional living youth projects funded under section 321 of the Runaway and Homeless Youth Act.

### ***Reason for Change***

The Chairman's mark includes a "transitional compliance" period for minor parents, so that income-eligible minor parents who at the time of application are having trouble meeting the rules and eligibility conditions related to education and living arrangements (such as school dropouts and homeless youth) are brought into the program where they can get the case management they need to meet the requirements.

### ***TANF Time Limit in Areas of Indian Country or Alaskan Native Villages of High Joblessness***

#### ***Current Law***

In applying TANF's 60-month limit on the use of Federal funds for assistance to a family with an adult, the law requires disregard of months of assistance provided to adults living in Indian country or an Alaskan Native village in which at least 50 percent of the adults are unemployed.

#### ***Chairman's Mark***

For the purposes of TANF's 60 month time limit, the mark requires disregard of months of assistance received by an adult living in Indian country or an Alaskan Native village if at least 40% of adult recipients are jobless. The 40% threshold is reduced to 35% if the adult is in a state that meets the TANF contingency fund "needy state" criteria or the tribe meets criteria for access to the contingency fund.

## **Section 111 –Penalties Against States**

### ***Maintenance of Effort Requirement***

### ***Current Law***

To receive a full TANF grant, state spending under all state programs in the previous year on behalf of TANF-eligible families (defined to include those ineligible because of the 5-year time limit or the federal ban on benefits to new immigrants) must equal at least 75% of the state's historic level (sum spent in FY1994 on AFDC and related programs). If a state fails work participation requirements, the required spending level rises to 80%. State expenditures that qualify for maintenance-of-effort credit are cash aid, child care, educational activities designed to increase self-sufficiency, job training, and work (but not generally available to non-TANF families) administrative costs (15% limit), child support collection passed through to the family without benefit reduction, and any other use of funds reasonably calculated to accomplish a TANF purpose.

### ***Chairman's Mark***

The mark extends the requirement that states maintain their own funding at 75 percent of its historic level (80% in case of failure to satisfy work standards) to cover FYs 2006 through 2011. It also specifies that a state's required MOE percentage for a given year is to be based on its meeting or failing the work requirement for the preceding fiscal year.

### ***Reason for Change***

By basing the MOE requirement on the state's work performance in the preceding year, the Chairman's mark ensures that states know the MOE requirement they will need to meet at the start of the year.

### ***States with Work Program Improvement***

### ***Current Law***

States are penalized for failure to meet work participation standards through a reduction in their block grant. States that fail the TANF work standards may enter into a corrective compliance plan with HHS which outlines how the state will come into compliance with the standards.

### ***Chairman's Mark***

The mark provides that a state with a corrective compliance plan accepted by the Secretary that also has had a 5 percentage point improvement in its work participation rate from the previous year will not be assessed a financial penalty for failure to meet TANF work participation standards.

### ***Reason for Change***

To ensure that states that are making improvement towards increasing their participation rate are not penalized.

## **Section 112 – Data Collection and Reporting**

### ***Current Law***

The law requires states to collect monthly, and report quarterly, disaggregated case record information (sample case record information may be used) about families who receive assistance under the state TANF program (except for information relating to activities carried out with welfare-to-work grants from the Department of Labor [DOL]). Required information includes ages of family members, size of family, employment status and earnings of the employed adult, marital status of adults, race and educational level of each adult and child, whether the family received subsidized housing, Medicaid, food stamps, or subsidized child care (and if the latter two, the amount). Also required are the number of hours per week that an adult participated in specified activities, information needed to calculate participation rates, type and amount of assistance received under TANF, unearned income received, and citizenship of family members.

Quarterly reports also must include the percentage of funds used for administrative costs or overhead, the total amount spent on programs for needy families, the number of noncustodial parents who participated in work activities, and the total amount spent on transitional services (with separate accounting for welfare-to-work grants). Quarterly reports also must provide the number of families and persons who received assistance each month and the total value of this assistance (with a breakdown for welfare-to-work grants). From a sample of closed cases, the report must provide the number of case closures attributed to employment, marriage, time limit sanction or state policy. The law requires the Secretary to submit annual reports to Congress that include state progress in meeting TANF objectives, demographic and financial characteristics of applicants, recipients, and ex-recipients, characteristics of each TANF-funded program, and trends in employment and earnings of needy families with children.

### ***Chairman's Mark***

The mark extends quarterly reporting requirements to cover families in MOE-funded separate state programs. It requires monthly reports from states on the TANF and separate state program caseload and annual reports from states on the characteristics of their state TANF program and their MOE separate state programs. Annual state reports must include names of programs, their activities and purpose, eligibility criteria, funding sources, number of beneficiaries, sanction policies, and work requirements, if any. The mark qualifies the use of samples to provide disaggregated case record information, permitting the Secretary to designate core data elements that must be reported for all families. The mark also changes some of the data elements required in the quarterly reports. It adds the race and educational level of each *minor parent*, deletes the educational level of each child, and adds the reason for receipt of assistance for a total of more than 60 months. It conforms the reporting of hours in work activities to the expanded definition of activities that count toward the work participation standards. It also

requires information needed to calculate progress toward universal engagement of each family, the date the family first received TANF, whether a self-sufficiency plan is established for the family; the marital status of the parents at the birth of each child in the family, and whether paternity has been established for those who were unwed. Quarterly reports must include information on families that became ineligible for assistance from TANF- or MOE-funded separate state programs during the month, broken down by reason (earnings, changes in family composition that result in increased earnings, sanctions, time limits, or other specified reasons). The mark requires the Secretary to prescribe regulations needed to collect data and to consult with the NGA, APHSA, and the National Conference of State Legislatures (as well as the Secretary of Labor) in defining data elements for required reports. The mark changes the requirements for the Secretary's annual TANF reports to Congress by setting July 1 as the deadline, deleting the requirement for information about applicants and requiring that the report include information about separate state MOE programs.

The mark requires states to report to the Secretary annually, beginning with FY2005, on achievement and improvement in TANF and MOE-funded separate state programs during the past fiscal year under the state's performance goals and measures. It also requires states to file annual reports on their progress toward the achievement of "universal engagement."

The mark also extends CCDBG case-level reporting to TANF-funded child care. It requires the Secretary to coordinate reporting so that states are not required to submit duplicate information to meet both TANF and CCDBG reporting and allows the Secretary to permit a state to fulfil reporting requirements with a consolidated TANF/CCDBG report on families receiving child care. It also allows the Secretary to waive this requirement if the Secretary determines that it would be administratively or financially burdensome to a state, but states granted such waivers must post data on TANF-funded child care on a web site. The mark provides 2 years for states to comply with this requirement.

### ***Reason for Change***

The Chairman's mark extends quarterly reporting requirements to ensure consistent data reporting and monitoring of all qualified state programs. Annual reports on all TANF and MOE programs are needed to provide information (e.g., number of beneficiaries) that is not otherwise available on non-cash assistance programs. Designation of a few core data elements for universal reporting would facilitate performance measurement and accountability. These elements are already submitted by states as part of the High Performance Bonus data collection. Data elements that have been difficult for the TANF agency to collect and report, or are not used to any significant extent, would be dropped to reduce burden on state agencies. A few data elements would be added to monitor compliance with universal engagement requirements.

## **Section 113 – Direct Funding and Administration by Indian Tribes**

### ***Current Law***

The allows Indian tribes to operate their own tribal family assistance plans. Tribes that opt to operate their own programs receive an amount equal to federal pre-TANF payments

received by the state attributable to Indians for administration of the programs. These sums (\$115 million in FY2003) are deducted from state TANF grants. It also appropriates \$7.6 million annually for work and training activities (now known as Native Employment Works [NEW]) to tribes that operated a pre-TANF work and training program.

### ***Chairman's Mark***

The mark reauthorizes tribal family assistance grants for FY2006-FY2010. It reauthorizes and increases funding for the NEW work program to \$12.6 million annually for FY2006 through FY2010. Tribes with an approved tribal family assistance plan that are not currently operating a NEW program will be eligible for grants. Funding will be allocated based on the population served by the program, though no tribe currently running a NEW program would receive less than what they received in FY2005. The mark also provides that if a tribe elects to incorporate its TANF program into a job training, tribal work experience, employment opportunities and skill development demonstration project, it would be subject to the requirements of the Indian Employment, Training, and Related Services Demonstration Act of 1992.

The mark establishes tribal improvement grants and appropriates \$80 million for them to support:

- Tribal capacity grants for tribal human services infrastructure (\$40 million). The Secretary of HHS shall award grants to Indian tribes for improving human services infrastructure, including management information systems, management information system-related training, equipping offices, and renovating (but not constructing) buildings. The Secretary is to give first priority to tribes that have applied for approval to run tribal family assistance programs; second priority to tribes that have an approved tribal family assistance plan; and third priority for tribes with approved foster care and adoption assistance programs (see Title IV),
- Tribal development grants to provided technical assistance in improving reservation economies (\$35 million). The Secretary of HHS, through the Commissioner of the Administration for Native Americans, shall award grants to nonprofit organizations, Indian tribes, and tribal organizations to enable grantees to provide technical assistance to tribes and tribal organizations in the following areas: the development of uniform commercial codes; creation or expansion of small business or microenterprise programs; the development of tort liability codes; creation or expansion of tribal marketing efforts; creation or expansion of for-profit collaborative business networks; development of innovative uses of telecommunications to help with distance learning or telecommuting; and development of economic opportunities in areas of high joblessness (with 30% of the grants awarded in this area).
- Technical assistance (\$5 million). Of this amount, at least \$2.5 million is for peer-learning programs among tribal administrators; and at least \$1 million is for making grants to Indian tribes for feasibility studies of their capacity to operate tribal family assistance programs.

The mark also enhances the information reported by HHS on Indians in the TANF annual report; increases requirements for consultation and coordination among states and tribes in developing TANF state plans; requires States to describe how they will provide equitable access to members of Indian tribes or tribal organizations not in a tribal TANF program; and requires a Government Accountability Office (GAO) report on the demographic, economic, and health characteristics of Indians who reside in Indian Country, Alaska, or receive assistance under a tribal TANF program (due January 1, 2007). Other provisions that affect tribal TANF programs include: making tribal organizations eligible for the Employment Achievement Bonus (Section 105); giving tribes access to the Contingency Fund (Section 106); modification to time limit rules for persons living in Indian country or Alaskan Native villages with high rates of joblessness (Section 110); setting aside \$2 million to study Indian welfare programs (Section 114); increasing the tribal set aside for mandatory child care funds to a minimum of 2% of the appropriation (Section 116); and providing tribes the authority to receive Federal foster care and adoption assistance funds (Section 403).

### ***Reason for Change***

The 1996 welfare law permitted Indian tribes to operate their own welfare programs for the first time. Since 1996, more than 30 tribes have taken advantage of the flexibility allowed under TANF to design culturally-appropriate programs to support low-income American Indians. This important policy is consistent with the value of tribal sovereignty. There is more work to be done. According to the Census Bureau, 25.9% of American Indians live in poverty, more than twice the national poverty rate. The average household income for American Indians is only 75% of that of the rest of Americans.

The Chairman's Mark contains critical provisions to support Tribes in setting up and improving Tribal TANF programs while exercising their sovereignty to adapt their programs to better fit the needs of American Indians living in Indian Country. The Chairman's Mark includes provisions to support economic development, capacity building and infrastructure for tribes operating their own welfare programs. Funding for job training and childcare are also included. In addition, tribes with high unemployment have the flexibility to determine how best to approach work requirements and terms of assistance. The addition of a GAO study to identify barriers for Urban Indians accessing benefits and the new requirements for HHS to collect more comprehensive data on receipt of benefits among American Indians will contribute to the necessary data needed to address poverty in Indian Country.

## **Section 114 – Research, Evaluations, and National Studies**

### ***Current Law***

The 1996 welfare law required the HHS Secretary to conduct research on effects, costs, and benefits of state programs. It provides that the Secretary might help states develop innovative approaches to employing TANF recipients and increasing the well-being of their children and directed the Secretary to evaluate these innovative projects. It appropriates \$15



million yearly, half for TANF research and novel approaches cited above and half for the federal share of state-initiated TANF studies and the completion and evaluation of pre-TANF waiver projects. (Section 413 of the Social Security Act also requires the Secretary to rank annually the states to which family assistance grants are paid, in the order of their placing recipients into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable calculation method becomes available, diverting persons from formally applying for TANF assistance.)

### *Chairman's Mark*

The mark appropriates \$100 million yearly for FYs 2005 through 2010, of which 80% must be spent on marriage promotion activities (described in the section establishing marriage grants). It makes these funds available to the HHS Secretary for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to states, Indian tribal organization, and such other TANF grantees as the Secretary may specify. It authorizes the Secretary to conduct these studies and demonstrations directly or through grants, contracts, or interagency agreements. In addition, for 5 years (FYs 2006 through 2010) it extends the current law annual appropriation of \$15 million and it designates a 50-50 allocation.

The mark establishes a limited demonstration program for up to 10 states to enhance or to provide for improved program integration coordination and delivery of public assistance. The only programs eligible for inclusion in the demonstration are: TANF, the Social Services Block Grant, and child care funded from mandatory child care funds. States would need to include a plan for evaluation to demonstrate the improved effectiveness of programs included. The Secretary would need to approve the state's plan. The following are provisions excluded from waiver authority: civil rights or prohibition of discrimination; the purposes or goals of any program; maintenance of effort requirements; health, safety or licencing requirements; requirements relating to the use of financial assistance for activities to improve the quality and availability of child care; report and audit requirements of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.); requirements of that Act that limit what financial assistance shall be expended for; the State plan and State applications requirements specified in section 658E of that Act (42 U.S.C. 9858c); labor standards under the Fair Labor Standards Act of 1938; or environmental protection. Additional provisions include: in the case of child care assistance funded under section 418 of the Social Security Act (42 U.S.C. 618), with respect to the requirement under the first sentence of subsection (b) (1) of that section that funds received by a State under that section shall only be used to provide child care assistance; with respect to any requirement that a State pass through to a sub-State entity part of all of an amount paid to the State; if the waiver would waive any funding restriction or limitation provided in an appropriations Act, or would have the effect of transferring appropriated funds from 1 appropriations account to another; or, except as otherwise provided by statute, if the waiver would waive any funding restriction applicable to a program authorized under an Act which is not an appropriations Act (but not including program requirements such as application procedures, performance standards, reporting requirements, or eligibility standards), or would have the effect of transferring funds from a program for which there is direct spending (as defined in section 250 (c) (8) of the Balanced Budget and Emergency Deficit Control Act of

1985) to another program. Additionally, The Director of the Office of Management and Budget shall establish a procedure for ensuring that not more than 10 states (including any portion of a state) conduct a demonstration project.

The mark authorizes \$15 million annually for the development of comprehensive indicators of child well-being. The indicators shall include measures related to education; social and emotional development; health and safety; and family well-being, such as family structure, income, employment, child care arrangements, and family relationships. Among the requirements for the indicators is that they be statistically representative at the State level, consistent across states, and over-sampled with respect to low-income children and families. The Secretary is to consult with the Federal Interagency Forum on Child and Family Statistics. It also requires the establishment of an advisory panel, appointed by the Secretary of HHS; the chairman and ranking members of the House Ways and Means and Senate Finance Committees; the Chairman of the National Governors Association; the President of the National Conference of State Legislatures; and the Director of the National Academy of Science.

The mark authorizes \$20 million for each of the FY 2006 - 2010 for Domestic Violence Prevention Grants. The mark provides that the Secretary of Health and Human Services shall award grants to eligible entities to enable such entities to carry out domestic violence prevention activities. These activities include: developing and disseminating best practices for addressing domestic and sexual violence; implementing voluntary skills programs on domestic violence as a barrier to economic security, including providing caseworker training, technical assistance and voluntary services for victims of domestic violence; providing broad-based income support and supplementation strategies that provide increased assistance to low-income working adults, such as housing, transportation, and transitional benefits as a means to reduce domestic violence, or, carrying out programs to enhance relationship skills and financial management skills, teaching individuals how to control aggressive behavior, and to disseminating information on the causes of domestic violence and child abuse.

The mark also appropriates \$2 million for FY2006 to fund research on tribal welfare programs and efforts to reduce poverty among Indians.

### ***Reason for Change***

Healthy marriages are critically important to the well-being of children, a point recognized in the purposes of the original TANF law. The TANF program works with families to help them overcome great difficulties and barriers, so they can become stronger and self-sufficient. One important way we can help many families is to help them build the skills and knowledge that will enable them to form and sustain healthy marriages.

However, there is much that we do not yet know about how states and communities can effectively promote healthy marriages. The Secretary's Fund for Research Demonstrations and Technical Assistance serves several purposes. Just as current welfare to work programs are built on the foundation of considerable research and experience, the ability of states and communities to provide effective assistance to families in the future will depend on a strong base of research and examined experience.

This section would fund research on the operation and impact of various promising healthy marriage promotion services and strategies. Funds would also be used to support demonstration projects intended to examine how various comprehensive community based strategies and programs can help to promote the development and strength of healthy marriages.

Funds would be available for HHS to make technical assistance available to program operators, in particular, by helping states, tribes and local administrators learn from each other.

Effective service delivery is often inhibited by poor coordination and inefficiencies inherent to providing complementary services through different programs. Through these demonstrations, states could explore ways to build truly seamless services and improve the quality of services for families and enhance child well-being.

The domestic violence prevention grants can be used to support activities to reduce incidence of domestic and sexual violence and child abuse.

#### **Section 115 – Study by the Census Bureau**

##### ***Current Law***

Appropriates \$10 million annually to expand the Survey of Income and Program Participation (SIPP) so as to obtain data with which to evaluate TANF's impact on a random national sample of recipients and, as appropriate, other low-income working families.

##### ***Chairman's Mark***

The mark appropriates \$10 million annually for FYs 2006 through 2010 for the Census Bureau for a new enhancement to the SIPP to allow for an assessment of the outcomes of continued welfare reform on the economic and child well-being of low income families with children.

##### ***Reason for Change***

Reauthorization of TANF provides an opportunity to strengthen the SIPP and build upon the Census Bureau's federal-state partnership, linking state cross-program administrative data and survey data to meet the requirements in the enhanced SIPP to understand how low-income families are faring under TANF.

#### **Section 116 – Funding for Child Care**

##### ***Current Law***

Current law provides \$2.7 billion per year for mandatory child care funds. These mandatory funds are combined with discretionary funds under an expanded Child Care and Development Block Grant (CCDBG).

***Chairman's Mark***

The Chairman's mark increases mandatory child care funding by \$1 billion over five years, providing \$2.9 billion annually. It also increases the minimum set-aside for Indian tribes and tribal organizations to 2% and sets aside \$10 million annually in mandatory funding for the Commonwealth of Puerto Rico.

***Reason for Change***

The need for additional child care resources to assist families.

## **Section 117 – Definitions and General Provisions**

### ***Current Law***

The law does not define the term “assistance,” but regulations define it as cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses) plus supportive services such as transportation and child care provided to families who are not employed. It does not include nonrecurrent, short-term benefits that are not intended to meet recurrent or ongoing needs and will not extend beyond four months.

### ***Chairman’s Mark***

The mark places in statute a modified version of the current regulatory definition of assistance. The current definition is modified to exclude child care and transportation aid for families without a worker (making all child care and transportation aid “nonassistance”).

The mark also limits to recipients of TANF assistance the application of requirements that the state participate in the Income Eligibility and Verification system (IEVS). That is, the state need not participate in IEVS for families receiving only TANF-funded benefits and services.

### ***Reason for Change***

The Chairman’s mark affirms the flexibility of states to provide assistance and services to low-income families, including temporarily unemployed families, and clarifies that rules tied to state spending on “assistance” will not apply to child care and other non-cash work support services provided to the unemployed.

## **Section 118 – Responsible Fatherhood Program**

### ***Current Law***

No provision.

### ***Chairman’s Mark***

The Responsible Fatherhood Program would be added to the Social Security Act as a new Part C to Title IV. The mark amends Title 1 of P.L. 104-193 which would make the responsible fatherhood program subject to the charitable choice provisions. The mark also includes a list of findings with respect to the impact of fathers being absent from the home and the purposes of a responsible fatherhood program.

The mark establishes four components for the responsible fatherhood program. It authorizes (1) a \$20 million grant program for up to 10 eligible states to conduct demonstration

programs; (2) a \$30 million grant for eligible entities to conduct demonstration programs; (3) \$5 million for a nationally recognized nonprofit fatherhood promotion organization to develop and promote a responsible fatherhood media campaign; (4) a \$20 million block grant for states to conduct responsible fatherhood media campaigns; and (5) \$1 million for a nationally recognized nonprofit research and education fatherhood organization to establish a national resource center for responsible fatherhood.

#### *Grants to States to Conduct Demonstration Programs*

The mark authorizes a \$20 million appropriation that gives the HHS Secretary the authority to award grants to up to 10 eligible states to conduct demonstration programs that carry out the purposes described below. An eligible state is a state that submits to the Secretary an application for a grant, at such time, in such manner, and containing the information required by the Secretary. An eligible state must give the Secretary a state plan that describes the types of programs or activities that the state will fund under the grant, including a good faith estimate of the number and characteristics of clients to be served under the projects and how the state intends to achieve at least two of the purposes described below. The state plan also must include a description of how the state will coordinate and cooperate with state and local entities responsible for carrying out other programs that relate to the purposes intended to be achieved under the demonstration program, including as appropriate, entities responsible for carrying out jobs programs and programs serving children and families. In addition, the state plan must include an agreement to maintain such records, submit such reports, and cooperate with such reviews and audits as the Secretary finds necessary to provide oversight of the demonstration program.

The mark requires the chief executive officer of the state to certify to the HHS Secretary that the state will use the demonstration funds to promote at least two of the purposes described below; the state will return any unused funds to the Secretary; and that the funds provided under the grant will be used for programs and activities that target low-income participants and that at least 50 percent of the participants in each program or activity funded must be parents of a child who is, or within the past 24 months has been, a recipient of assistance or services under a state program funded under Title IV-D or Title IV-A, foster care (Title IV-E), Medicaid (Title XIX), or food stamps; or parents, including an expectant parent or a married parent, whose income (after adjustment for court-ordered child support paid or received) does not exceed 150% of the poverty line. In addition, the chief executive officer of the state must certify to the Secretary that programs or activities funded under the demonstration grant will be provided with information about the prevention of domestic violence and that the state will consult with representatives of state and local domestic violence centers. The state must also certify that funds provided to the state for demonstration grants must not be used to supplement or supplant other federal, state, or local funds that are used to support programs or activities that are related to the purposes of the demonstration grants.

In determining which states to award responsible fatherhood demonstration grants, the HHS Secretary must attempt to achieve a balance among the eligible states with respect to the size, urban or rural location, and use of differing or unique methods of the entities that states intend to use to conduct the programs and activities funded by the demonstration grants. The

Secretary must give priority to eligible states that have demonstrated progress in achieving at least one of the stated purposes through previous state initiatives or that have demonstrated need with respect to reducing the incidence of out-of-wedlock births or absent fathers in the state.

The mark stipulates the purposes of the demonstration grants are to promote responsible fatherhood through (1) marriage promotion (through counseling, mentoring, disseminating information about the advantages of marriage and two-parent involvement for children, enhancing relationship skills, teaching how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, skills-based marriage education, financial planning seminars, and divorce education and reduction programs, including mediation and counseling); (2) parenting activities (through counseling, mentoring, mediation, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods); and (3) fostering economic stability of fathers (through work first services, job search, job training, subsidized employment, education, including career-advancing education, job retention, job enhancement, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods).

The mark prohibits the use of responsible fatherhood demonstration grants for court proceedings on matters of child visitation or child custody, or legislative advocacy.

The mark prohibits a state from being awarded a grant unless the state consults with experts of domestic violence or with relevant community domestic violence coalitions in developing programs or activities funded by the grant. The state also must describe in the grant application how the proposed programs or activities will address, as appropriate, issues of domestic violence and what the state will do, to the extent relevant, to ensure that participation in such programs or activities is voluntary and to inform potential participants that their involvement is voluntary.

The mark requires that each eligible state that receives a grant must return any unused portion of the grant for a fiscal year back to the HHS Secretary not later than the last day of the second succeeding fiscal year, together with any earnings from interest on the unused portion. The Secretary is required to establish an appropriate procedure for redistributing to eligible states that have expended the entire amount of their grant for a fiscal year any amount that is returned to the Secretary by eligible states.

The mark authorizes a \$20 million appropriation for each of the fiscal years 2006 through 2010 for responsible fatherhood demonstration grants. The mark stipulates that the amount of each responsible fatherhood demonstration grant awarded must be an amount sufficient to implement the state plan submitted by the state, subject to a minimum amount of \$1 million per fiscal year in the case of the 50 states and the District of Columbia, and \$500,000 in the case of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

#### *Grants to Eligible Entities to Conduct Demonstration Programs*

The mark authorizes a \$30 million appropriation that gives the HHS Secretary the authority to award grants to eligible entities to conduct demonstration programs that carry out the purposes described above. An eligible entity is a local government, local public agency, community-based or nonprofit organization, or private entity, including any charitable or faith-based organization, an Indian tribe or a tribal organization that submits to the Secretary an application for a grant, at such time, in such manner, and containing the information required by the Secretary. An eligible entity must give the Secretary a description of the programs and activities that the entity will fund under the grant, including a good faith estimate of the number and characteristics of clients to be served under the projects and how the entity intends to achieve at least two of the purposes described above. The project description also must include a description of how the entity will coordinate and cooperate with state and local entities responsible for carrying out other programs that relate to the purposes intended to be achieved under the demonstration program, including as appropriate, entities responsible for carrying out jobs programs and programs serving children and families. In addition, the project description must include an agreement to maintain such records, submit such reports, and cooperate with such reviews and audits as the Secretary finds necessary to provide oversight of the demonstration program.

The mark requires a certification that the entity will use the demonstration funds to promote at least two of the purposes described above; the entity will return any unused funds to the Secretary; and that the funds provided under the grant will be used for programs and activities that target low-income participants and that at least 50 percent of the participants in each program or activity funded must be parents of a child who is, or within the past 24 months has been, a recipient of assistance or services under a state program funded under Title IV-D or Title IV-A, foster care (Title IV-E), Medicaid (Title XIX), or food stamps; or parents, including an expectant parent or a married parent, whose income (after adjustment for court-ordered child support paid or received) does not exceed 150% of the poverty line. In addition, the mark requires a certification that the entity will consult with representatives of state and local domestic violence centers. The entity must also certify that funds provided to the state for demonstration grants must not be used to supplement or supplant other federal, state, or local funds provided to the entity that are used to support programs or activities that are related to the purposes of the demonstration grants.

In determining which entities to which to award responsible fatherhood demonstration grants, the HHS Secretary must attempt to achieve a balance among the eligible entities with respect to the size, urban or rural location, and use of differing or unique methods of the entities.

The mark prohibits the use of responsible fatherhood demonstration grants awarded to entities for court proceedings on matters of child visitation or child custody, or legislative advocacy.

The mark stipulates that the HHS Secretary may not award a grant to an eligible entity unless the entity, as a condition of receiving the grant, consults with experts in domestic violence or with relevant community domestic violence coalitions in developing the programs or activities funded by the grant; and describes in the grant application how the programs or activities will address issues of domestic violence and what the entity will do to ensure that



participation in the programs or activities funded is voluntary and to inform potential participants that their involvement is voluntary.

The mark requires that each eligible entity that receives a grant must return any unused portion of the grant for a fiscal year back to the HHS Secretary not later than the last day of the second succeeding fiscal year, together with any earnings from interest on the unused portion. The Secretary is required to establish an appropriate procedure for redistributing to eligible entities that have expended the entire amount of their grant for a fiscal year any amount that is returned to the Secretary by eligible entities.

The mark authorizes a \$30 million appropriation for each of the fiscal years 2006 through 2010 for responsible fatherhood demonstration grants to eligible entities.

#### *National Clearinghouse for Responsible Fatherhood Programs*

The mark authorizes an appropriation of \$5 million for the HHS Secretary to contract with a nationally recognized, nonprofit fatherhood promotion organization to (1) develop, promote and distribute to interested states, local governments, public agencies, and private entities a media campaign that encourages appropriate involvement of both parents in the life of their children (with an emphasis on responsible fatherhood); and (2) develop a national clearinghouse to assist states and communities in efforts to promote and support marriage and responsible fatherhood by collecting, evaluating, and making available (through the Internet and by other means) to other states information on state-sponsored media campaigns.

The mark requires the HHS Secretary to ensure that the selected nationally recognized nonprofit fatherhood promotion organization coordinate the media campaign and national clearinghouse that are developed with grant funds with national, state, or local domestic violence programs.

The nationally recognized nonprofit fatherhood promotion organization must have at least four years of experience in designing and disseminating a national public education campaign, and in providing consultation and training to community-based organizations interested in implementing fatherhood programs.

The mark authorizes a \$5 million appropriation for each of the fiscal years 2006 through 2010 to establish a national clearinghouse for responsible fatherhood programs.

#### *Block Grants to States to Encourage Media Campaigns*

The mark authorizes the HHS Secretary to provide a \$20 million block grant to states for media campaigns for each of the fiscal years 2006 through 2010.

Not later than October 1 of each of the fiscal years for which a state wants to receive an allotment of block grant funds, the mark requires the chief executive officer of the state to certify to the HHS Secretary that the state will use grant funds to promote the formation and maintenance of married two-parent families, strengthen fragile families, and promote responsible

fatherhood through media campaigns. The executive officer also must certify that the state will return any unused funds to the Secretary and comply with the stipulated reporting requirements.

States have the option of establishing media campaigns via radio or television, air-time challenge programs (under which the state may purchase air time only if it obtains non-federal contributions to purchase additional similar air time), or through the distribution of printed or other advertisements. A state may administer media campaigns directly or through grants, contracts, or cooperative agreements with public agencies, local governments, or private entities (including charitable and faith-based organizations). In developing broadcast and printed advertisements for media campaigns, the state or other entity administering the campaign must consult with representative of state and local domestic violence centers. The mark defines broadcast advertisement, child at risk, poverty line, printed or other advertisement, state, and young child.

Each state's allotment is based on its proportion of poor children in the nation, and its portion of children under age 5 in the nation. Each state and the District of Columbia would receive no less than the minimum allotment of \$200,000; Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands would receive no less than \$100,000 per year for FY2004-2008.

The mark requires that each eligible entity that receives a grant must return any unused portion of the grant for a fiscal year back to the HHS Secretary not later than the last day of the second succeeding fiscal year, together with any earnings from interest on the unused portion. The Secretary is required to establish an appropriate procedure for redistributing to states that have expended the entire amount of their grant for a fiscal year any amount that is returned to the Secretary by states, or not allotted to states because the state did not submit a certification by October 1 of a fiscal year.

The mark requires each state that receives an allotment to monitor and evaluate media campaigns conducted using the allotted grant funds and to submit an annual report to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

The mark authorizes the HHS Secretary to provide a \$20 million block grant to states for media campaigns for each of the fiscal years 2006 through 2010. The Secretary must conduct an evaluation of the impact of the media campaigns and report to Congress the results of the evaluation no later than December 31, 2008. The mark authorizes a \$1 million appropriation for FY2006 to conduct the evaluation (the evaluation funding is to remain available until expended).

#### *National Resource Center for Responsible Fatherhood*

The mark authorizes an appropriation of \$1 million for the HHS Secretary to contract with a nationally recognized, nonprofit research and education fatherhood organization to (1) provide technical assistance and training to public and private agencies and grass roots organizations that promote responsible fatherhood and healthy marriage; and (2) develop a

clearinghouse of resource materials to assist community-based organizations in developing local responsible fatherhood programs, with an emphasis on training and outcome evaluation.

The nationally recognized nonprofit research and education fatherhood organization must have at least 12 years of experience in (1) developing and distributing research-based curriculum that promotes responsible fatherhood and healthy marriage with an emphasis on low-income and noncustodial fathers; (2) providing consultation and training to community-based organizations with a track record of working with social service, government, and faith-based organizations; and (3) providing direct training to fathers, father figures, and mothers using research-based curriculum in a variety of economic, cultural and family situations.

The mark authorizes the HHS Secretary to provide a \$1 million for a national resource center for responsible fatherhood for each of the fiscal years 2006 through 2010.

#### *Nondiscrimination Clause*

The mark requires that the responsible fatherhood programs and activities be made available to all fathers and expectant fathers, including married and unmarried fathers and custodial and non-custodial fathers, with a special focus on low-income fathers, on the same basis; and that mothers and expectant mothers be able to participate in such programs and activities on the same basis as the fathers.

#### *Reason for Change*

Children do better academically, emotionally and socially when raised by their married biological parents. This provision in the bill provides states and faith based and community organizations and local governments with resources to find innovative ways to promote responsible fatherhood through marriage promotion and divorce reduction, parenting skill building, and where appropriate, expanded opportunities for strengthening the employment opportunities of low-income fathers. The provision is targeted on families, many of whom are unmarried at the time of the birth of their child, who have received TANF, Food Stamps or Medicaid Services or who have incomes below 150% of poverty. The provision requires all grantees to ensure that program participation is voluntary and that domestic violence experts and coalitions are consulted.

#### **Section 119 – Additional Grants**

##### *Social Services Capitalization Grants*

##### *Current Law*

No provision.

##### *Chairman's Mark*

The mark authorizes \$40 million for each of FYs 2006-2010 for grants to be made by the HHS Secretary to entities for the purpose of capitalizing and developing the role of sustainable social services that are critical to the success of moving TANF recipients to work. Applicants would be required to describe the capitalization strategy they intend to follow to develop a program that generates its own source of on-going revenue while assisting TANF recipients. Administrative costs could not exceed 15 percent (except for computerization and information technology needed for tracking or monitoring required by TANF), but none of the other statutory rules regarding use of TANF funds would apply. The mark requires the Secretary to conduct an evaluation of the programs developed by these grants.

***Reason for Change***

The provision would support efforts to develop the role of self-sustainable social services which are critical in the success of moving welfare recipients into work.

***Transportation Ownership Demonstration Grants***

***Current Law***

No provision.

***Chairman's Mark***

The mark authorizes of \$25 million for each of FYs 2006-FY2010 for grants for low-income car ownership. The purposes are to improve employment opportunities for low-income families and provide incentives to states, Indian tribes, localities and nonprofit groups to develop and administer programs that promote car ownership by low-income families. No more than 5% could be used for administrative costs of the Secretary in carrying out this program.

***Reason for Change***

State TANF agencies cite a lack of reliable transportation as a major barrier to employment. This demonstration will promote innovative approaches to solving this problem. Certain State agencies and non-profit organizations have begun experimenting with car donation programs, in which donated vehicles are refurbished and ownership is transferred to families on TANF demonstrating need. Outcome studies have shown that beneficiaries reduce dependence on public cash-assistance by as much as 70%. The demonstration provides funds to encourage further study and dissemination of this promising approach to moving families to independence.

***Transitional Jobs/Business Links Grants***

***Current Law***

No provision.

***Chairman's Mark***

The mark authorizes \$200 million per year for FY2006 through FY2010 for business links and transitional jobs programs. Grants are to be jointly awarded by the Secretaries of HHS and Labor to fund programs:

- (1) to promote "business linkages." These are programs designed to improve the wages of eligible individuals by improving jobs skills in partnership with employers and providing supports and services at or near the worksite. Eligible grantees are private organizations, local workforce investment boards, States, localities, Indian tribes, tribal organizations and employers. Individuals eligible to be served by these programs are TANF recipients, former recipients, individuals with a disability, or noncustodial parents having difficulty in paying child support obligations who also have limited proficiency in the English language or other barriers to employment.
- (2) for "transitional jobs." These programs combine subsidized, time-limited, wage-paying supported work in the public or nonprofit sectors with skill development and activities to remove barriers to employment. Eligible grantees are private organizations, local workforce investment boards, States, localities, Indian tribes, and tribal organizations. Individuals eligible to be served by these programs are TANF recipients, former recipients, individuals with a disability, or noncustodial parents having difficulty in paying child support obligations who also have limited proficiency in the English language or other barriers to employment.

The mark requires a minimum of 40% of funds appropriated be used for businesses linkages and also a minimum of 40% be used for transitional jobs. Benefits and services provided under these programs are not considered assistance. The mark also requires an assessment by HHS and DoL of them, and sets aside \$3 million per year for that assessment. The mark provides an additional set-aside of 1.5% for evaluation.

### ***Reason for Change***

Transitional jobs programs have been done in some States and have proven to be effective work-based programs where other programs have failed. By combining wage-paying subsidized jobs that combine real work, skill development and support services, these programs provide participants with the opportunity for skill development that has long-term impacts. Research shows that completers of transitional jobs program have high success rates in the labor market--an 81-94% employment rate for program completers. Partnership programs funded during the first round on welfare reform were successful in placing TANF parents with major employers ranging from airlines to regional and national retailers. This authorization is a targeted authorization to provide incentive to place TANF parents in jobs where they will stay off welfare rolls.

### ***Nondisplacement of Regular Employees***

### ***Current Law***

Under TANF law, a recipient may fill a vacant employment position. However, no adult in a work activity that is funded in whole or in part by Federal funds may be employed or assigned when another person is on layoff from the same or any substantially equivalent job, or if the employer has ended the employment of any regular employee or otherwise caused an involuntary reduction in its workforce in order to fill a vacancy with a TANF recipient. These provisions do not preempt any provision of State or local law that provides greater protection against displacement. States are required to have a grievance procedure to resolve complaints of displacement of permanent employees.

### ***Chairman's Mark***

The mark replaces the current nondisplacement provisions of TANF law. It provides that an adult recipient cannot displace any employee or position (including partial displacement), fill any unfilled vacancy, or perform work when any individual is on layoff from the same job or substantially equivalent job. TANF work activities cannot impair existing contracts or services; be inconsistent with any law, regulation, collective bargaining agreement; or infringe on the recall rights or promotional opportunities of any worker. TANF work activities must be in addition to any activity that would otherwise be available and not supplant the hiring of a non-TANF worker.

The mark also requires states to have a grievance procedure for resolving complaints, including the opportunity for a hearing, and sets time standards for the process. It provides remedies for a violation of the non-displacement provisions, including termination and suspension of payments, prohibition on placement of the participant, reinstatement of the employee, or other relief to make the aggrieved employee whole. These provisions do not preempt or supercede any State or local law that provides greater protection.

### ***Reason for Change***

The mark improves protections against displacement and strengthens the grievance procedure.

## **Section 120 – Technical Corrections**

## **TITLE II – ABSTINENCE EDUCATION**

### **Section 201 – Extension of Abstinence Education Program**

#### ***Current Law***

The law appropriated \$50 million annually for each of the fiscal years 1998-2002 for matching grants to states to provide abstinence education and, at state option, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on groups that are most likely to bear children out-of-wedlock. Funding has been extended through March 31, 2005 by continuing appropriations extension measures. Funds must be requested by states when they apply for Maternal and Child Health (MCH) block grant funds and must be

used exclusively for the teaching of abstinence. States must match every \$4 in federal funds with \$3 in state funds.

#### *Chairman's Mark*

The mark extends the \$50 million annually appropriation for the abstinence education block grant program for each of the fiscal years 2006-2010. The mark continues funding for the program through September 30, 2005 in the same manner authorized for fiscal year 2004. The mark bases a state's funding allotment on the proportion of low-income children in the state compared to the total number of low-income children in the states that apply for abstinence education block grants. Also (beginning with fiscal year 2006), the mark permits the HHS Secretary to reallocate abstinence education funds that he or she deems unnecessary to carry out a state's program to other states that the Secretary determines need additional funding to carry out their abstinence education block grant programs.

#### *Reason for Change*

The mark continues the program with no change, but allows unrequested funds to be reallocated among the states with abstinence education programs. This will allow states that want to provide abstinence education with more access to funding.

### **Title III—Child Support**

#### **Section 301 - Distribution of child support collect by state on behalf of children receiving certain welfare benefits**

##### *Assignment of child support rights*

##### *Current Law*

In order to receive benefits TANF recipients must assign their child support rights to the state. The assignment covers any unpaid child support that accrues while the family receives TANF and any support that accrued before the family began receiving TANF.

Any assignment of rights to unpaid child support that was in effect on Sept. 30, 1997 must remain in effect. This means that any child support collected as a result of the assignment must go the state and the federal government.

##### *Chairman's Mark*

The mark stipulates that the assignment covers only child support that accrues during the period that the family receives TANF. (In other words, pre-assistance arrearages would be eliminated). In addition, the mark gives states the option to discontinue pre-assistance assignments in effect on Sept. 30, 1997. If a state chooses to discontinue the child support assignment, the state may distribute collections from such assignment to the family. States also

would have the option to discontinue pre-assistance arrearage assignments in effect before 2003. If a state chooses to discontinue the child support assignment, the state may distribute collections from such assignment to the family.

### ***Reason for Change***

The Chairman's mark would support family self-sufficiency by allowing families to keep more of the child support collected on their behalf. It would also prevent TANF families from losing access to lump sum collections of past-due pre-assistance support that may help them exit TANF.

### ***Distribution of child support to TANF families***

#### ***Current Law***

While the family receives TANF benefits, the state is permitted to retain any current child support payments and any assigned arrearages it collects up to the cumulative amount of TANF benefits which has been paid to the family. In other words, the state can decide how much, if any, of the state share (some, all, none) of the child support payment collected on behalf of TANF families to send to the family. The state is required to pay the federal government the federal share of the child support collected.

Child support payments collected on behalf of TANF families that are passed through to the family and disregarded by the state count toward the TANF MOE (maintenance of effort) expenditure requirement.

#### ***Chairman's Mark***

For families that receive TANF benefits, the mark requires the federal government to waive its share of child support collections passed through to TANF families by the state and disregarded by the state—up to an amount equal to \$400 per month in the case of a family with one child, and up to \$600 per month in the case of a family with two or more children. Like current law, disregarded pass through amounts count as TANF MOE expenditures.

The mark includes a provision that allows states with section 1115 demonstration waivers (on or before October 1, 1997) related to the child support pass-through provisions to continue to pass through payments to families in accordance with the terms of the waiver.

### ***Reason for Change***

The Chairman's mark promotes family self-sufficiency by providing an incentive for states to allow families to keep more of the child support collected on their behalf. No such incentive currently exist. This option would also allow noncustodial parents who pay child support to know that their support payments are being received by their children.

### ***Distribution of child support to former TANF families***



### ***Current Law***

With respect to former TANF families: Current child support payments must be paid to the family. Since October 1, 1997, child support arrearages that accrue *after* the family leaves TANF also are required to be paid to the family before any monies may be retained by the state. Further since October 1, 2000, child support arrearages that accrued *before* the family began receiving TANF also are required to be distributed to the family first.

However, if child support arrearages are collected through the *federal income tax refund offset program*, the family *does not* have first claim on the arrearage payments. Such arrearage payments are retained by the state and the federal government.

### ***Chairman's Mark***

As mentioned above, the mark eliminates the assignment of pre-assistance arrearages. The mark also eliminates the special treatment of child support arrearages collected through the federal income tax refund offset program. Such collections also would go to the family first.

To the extent that the arrearage amount payable to a former TANF family in any given month under the mark exceeds the amount that would have been payable to the family under current law, the state can elect to have the amount paid to the family considered an expenditure for Maintenance-of-Effort (MOE) purposes. In addition, the mark amends the Child Support Enforcement State Plan to include an election by the state to include whether it is using the new option to pass through all arrearage payments to former TANF families without paying the federal government its share of such collections or whether it chooses to maintain the current law distribution method. Further, the mark stipulates that no later than 6 months after the date of enactment of this legislation, the HHS Secretary, in consultation with the states, must establish the procedures to be used to make estimates of excess costs associated with new funding option.

### ***Reason for Change***

The Chairman's mark supports self-sufficiency by providing former TANF families with more of the child support collected on their behalf, regardless of how it is collected. It allows states to use the federal tax refund offset remedy to get more collections to families. Providing MOE for additional money to families provides further incentive for states to exercise this option and is consistent with MOE policy on the pass through of child support collections to current TANF families.

### ***Distribution of child support to families that never received assistance***

#### ***Current Law***

The entire amount of the child support collection is distributed to families that never received TANF assistance.

***Chairman's Mark***

Same as current law.

***Reason for Change***

No change

***Distribution of child support to families under certain agreements***

***Current Law***

In the case of a family receiving TANF assistance from an Indian tribe or tribal organization, the child support collection is to be distributed according to the cooperative agreement specified in the Child Support Enforcement State Plan.

***Chairman's Mark***

Same as current law.

***Reason for Change***

No change.

***Effective date***

***Current Law***

Not applicable.

***Chairman's Mark***

The amendments made by this section of the bill would take effect on October 1, 2009, and would apply to payments under parts A and D of Title IV of the Social Security Act for calendar quarters beginning on or after such date. States could elect to have the amendments take effect earlier—at any date that is 18 months after the date of enactment of the bill but not later than September 30, 2009.

***Reason for Change***

This effective date will allow states sufficient time to implement required and optional changes in child support distribution and assignment, while also allowing states to choose to proceed more quickly.

## **Section 302 - Mandatory review and adjustment of child support orders for families receiving TANF**

### ***Current Law***

Federal law requires that the state have procedures under which every 3 years the state review and adjust (if appropriate) child support orders at the request of either parent, and that in the case of TANF families, the state review and update (if appropriate) child support orders at the request of the state Child Support Enforcement (CSE) agency or of either parent.

### ***Chairman's Mark***

The mark requires states to review and, if appropriate, adjust child support orders in TANF cases every 3 years. The provision would take effect on October 1, 2007.

### ***Reason for Change***

The mandatory review and, if necessary, modification of child support orders will make award amounts more appropriate. In some cases this will increase the amount of payment required, which will in turn increase collections, and in other cases it will reduce the amount of payment required, therefore limiting the accumulation of uncollectible arrears.

## **Section 303 - Report on undistributed child support payments**

### ***Current Law***

No provision.

### ***Chairman's Mark***

The mark requires that within 6 months of enactment, the HHS Secretary must submit to the House Ways and Means Committee and the Senate Finance Committee a report on the procedures states use to locate custodial parents for whom child support has been collected but not yet distributed. The report must include an estimate of the total amount of undistributed child support and the average length of time it takes undistributed child support to be distributed. To the extent that the HHS Secretary deems appropriate, the report would be required to include recommendations as to whether additional procedures should be established at the state or federal level to expedite the payment of undistributed child support.

### ***Reason for Change***

Undistributed collections are a significant new issue that merits further analysis and may require further state or federal action in order to ensure that families are receiving the support paid on their behalf, as appropriate.

## **Section 304 - Decrease in amount of child support arrearage triggering passport denial**

### ***Current Law***

Federal law stipulates that the HHS Secretary is required to submit to the Secretary of State the names of noncustodial parents who have been certified by the state CSE agency as owing more than \$5,000 in past-due child support. The Secretary of State has authority to deny, revoke, restrict, or limit passports to noncustodial parents whose child support arrearages exceed \$5,000.

### ***Chairman's Mark***

The mark authorizes the denial, revocation, or restriction of passports to noncustodial parents whose child support arrearages exceed \$2,500, rather than \$5,000 as under current law. The provision would take effect on October 1, 2006.

### ***Reason for Change***

This provision will increase the success of the passport denial program and provide more collections to families. Fewer arrears will have to build up before this effective enforcement tool can be utilized.

### **Section 305 - Use of tax refund intercept program to collect past-due child support on behalf of children who are not minors**

#### ***Current Law***

Federal law prohibits the use of the federal income tax offset program to recover past-due child support on behalf of non-welfare cases in which the child is not a minor, unless the child was determined disabled while he or she was a minor and for whom the child support order is still in effect. (Since its enactment in 1981 (P.L. 97-35), the federal income tax offset program has been used to collect child support arrearages on behalf of welfare families regardless of whether the children were still minors—as long as the child support order was in effect.)

#### ***Chairman's Mark***

The mark permits the federal income tax refund offset program to be used to collect arrearages on behalf of non-welfare children who are no longer minors. The provision would take effect on October 1, 2007.

#### ***Reason for Change***

This will increase support to families by removing a barrier to collecting past due child support on behalf of children who are no longer minors.

### **Section 306 - Garnishment of compensation paid to veterans for service-connected disabilities in order to enforce child support obligations**

### ***Current Law***

The disability compensation benefits of veterans are treated differently than most forms of government payment for purposes of paying child support. Whereas most government payments are subject to being automatically withheld to pay child support, veterans disability compensation is not subject to intercept. The only exception occurs when veterans have elected to forego some of their retirement pay in order to collect additional disability payments. The advantage of veterans replacing retirement pay with disability pay is that the disability pay is not subject to taxation. With this exception, which occurs rarely, the only way to obtain child support payments from veterans' disability compensation is to request that the Secretary of the Veterans Administration intercept the disability compensation and make the child support payments.

### ***Chairman's Mark***

The mark allows veterans' disability compensation benefits to be intercepted (withheld) and paid on a routine basis to the custodial parent. The mark prohibits the garnishment of any veteran's disability compensation in order to collect alimony, unless that disability compensation is being paid because retirement benefits were waived. The provision would take effect on October 1, 2007.

### ***Reason for Change***

This proposal will provide more child support collections to families of veterans and make the child support intercept of veterans's disability payments more consistent with other forms of government payment.

## **Section 307 - Improving federal debt collection practices**

### ***Current Law***

Federal law stipulates that any *federal agency* that is owed a nontax debt (that is more than 180 days past-due) may notify the Secretary of the Treasury to obtain an administrative offset of the debt. Currently, states have the authority to garnish Social Security benefits (except SSDI) for child support payments, but they cannot use the federal administrative offset process to do so. However, Social Security payments can only be offset for federal debt recovery. (Federal law exempts \$9,000 annually (\$750 per month) from the administrative offset.

### ***Chairman's Mark***

The mark expands the federal administrative offset program by allowing certain Social Security benefits to be offset to collect past-due child support (on behalf of families receiving CSE [Title IV-D of the Social Security Act] services) in appropriate cases selected by the states. Moreover, it specifically overrules section 207 of the Social Security Act which states that Social

Security benefits are not transferrable by garnishment. The provision would take effect on a date that is 18 months after the date of enactment.

### ***Reason for Change***

The Chairman's mark will increase child support collections to the families of benefit recipients by allowing offset of additional benefits, while maintaining an adequate benefit level for the recipient.

## **Section 308 - Maintenance of technical assistance funding**

### ***Current Law***

Federal law authorizes the HHS Secretary to use 1% of the federal share of child support collected on behalf of TANF families the preceding year to provide to the states – information dissemination and technical assistance, training of state and federal staff, staffing studies, and related activities needed to improve CSE programs (including technical assistance concerning state automated CSE systems), and research demonstration and special projects of regional or national significance relating to the operation of CSE programs. Such funds are available until they are expended.

### ***Chairman's Mark***

The mark authorizes the HHS Secretary to use 1% of the federal share of child support collected on behalf of TANF families the preceding year, or the amount appropriated for FY2002, whichever is greater, to provide to the states – information dissemination and technical assistance, training of state and federal staff, staffing studies, and related activities needed to improve CSE programs (including technical assistance concerning state automated CSE systems), and research demonstration and special projects of regional or national significance relating to the operation of CSE programs. Such funds are available until they are expended.

### ***Reason for Change***

Since the child support assignment and distribution changes in the Chairman's mark will allow TANF and former TANF families to keep more of the child support collected on their behalf, TANF collections retained by the federal government will be reduced. This provision freezes technical assistance funding at least at FY2002 levels to ensure that sufficient funding is available for important child support technical assistance functions, even as the federal share of collections falls.

## **Section 309 - Maintenance of federal parent locator service funding**

### ***Current Law***

Federal law authorizes the HHS Secretary to use 2% of the federal share of child support collected on behalf of TANF families the preceding year for operation of the Federal Parent

Locator Service to the extent that the costs of the Federal Parent Locator Service are not recovered by user fees. Federal law allows only such funds that were appropriated for FY1997-FY2001 to remain available until expended.

### ***Chairman's Mark***

The mark authorizes the HHS Secretary to use 2% of the federal share of child support collected on behalf of TANF families the preceding year, or the amount appropriated for FY2002, whichever is greater, for operation of the Federal Parent Locator Service to the extent that the costs of the Federal Parent Locator Service are not recovered by user fees. Allows amounts appropriated for the Federal Parent Locator Service to remain available until they are expended.

### ***Reason for Change***

Since the child support assignment and distribution changes in the Chairman's mark will allow TANF and former TANF families to keep more of the child support collected on their behalf, TANF collections retained by the federal government will be reduced. This provision freezes Federal Parent Locator Service funding at least at FY2002 levels to ensure that sufficient funding is available for the operation of the Federal Parent Locator Service, which is a key child support enforcement tool, even as the federal share of collections falls.

## **Section 310 - Identification and seizure of assets held by multi-state financial institutions**

### ***Current Law***

The 1996 welfare reform law required states to enter into agreements with financial institutions conducting business within their state for the purpose of conducting a quarterly data match. The data match is intended to identify financial accounts (in banks, credit unions, money-market mutual funds, etc.) belonging to parents who are delinquent in the payment of their child support obligation. When a match is identified, state CSE agencies may issue liens or levies on the account(s) of the delinquent parent to collect the past-due child support. In some cases, state law prohibits the placement of liens or levies on accounts outside of the state and some financial institutions only accept liens and levies from the state where the account is located. In 1998, Congress made it easier for multi-state financial institutions to match records by permitting the Federal Parent Locator Service (FPLS) to help them coordinate their information.

### ***Chairman's Mark***

The mark authorizes the HHS Secretary, via the Federal Parent Locator Service, to assist states to perform data matches comparing information from states and participating multi-state financial institutions with respect to persons owing past-due child support. The mark authorizes the Secretary via the Federal Parent Locator Service to seize assets, held by such financial institutions, of noncustodial parents who owe child support arrearage payments, by issuing a notice of a lien or levy and requiring the financial institution to freeze and seize assets in

accounts in multi-state financial institutions to satisfy child support obligations. The Secretary would be required to transmit any assets seized under the procedure to the state for accounting and distribution. The mark stipulates that the Secretary must inform affected account holders/asset holders of their due process rights.

### ***Reason for Change***

After HHS identifies assets held in multi-state financial institutions by persons who owe past due support, many states cannot take action to seize financial assets when they are located in another state. Therefore, the Chairman's mark authorizes the Secretary to take administrative action on behalf of a state to freeze and seize assets in accounts in multi-state financial institutions, identified through the multi-state financial institution data match. This will make full use of this existing enforcement mechanism and increase the collection of past-due child support.

### **Section 311 - Information comparisons with insurance data**

#### ***Current Law***

No provision.

#### ***Chairman's Mark***

The mark authorizes the HHS Secretary, via the Federal Parent Locator Service, to compare information of noncustodial parents who owe past-due child support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and to furnish any information resulting from a match to the appropriate state CSE agency in order to secure settlements, awards, etc. for payment of past-due child support.

#### ***Reason for Change***

States must have in effect laws requiring the use of procedures authorizing intercepting or seizing periodic or lump-sum payments from settlements to satisfy current support obligations. Often states are unable to access the databases that contain insurance and settlement information, especially when the information is related to an interstate case or when an insurance company is located in another state. In order to assist states, the Chairman's mark permits the Secretary to administer an insurance claims matching program. Under the proposal, the Federal Offset File (individuals who owe past-due support) would be matched against insurance databases to identify individuals who have pending insurance claims and settlements. The Secretary would notify states if delinquent obligors have pending insurance claims and settlements so that states could take enforcement actions to freeze and seize these payments. Participation by insurance companies would be voluntary.

### **Section 312 - Tribal access to the federal parent locator service**

#### ***Current Law***



The Federal Parent Locator Service (FPLS) is a national location system operated by the federal Office of Child Support Enforcement to assist states in locating noncustodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody and visitation. It also identifies support orders or support cases involving the same parties in different states. The FPLS consists of the Federal Case Registry, Federal Offset Program, Multi-state Financial Institution Data Match, National Directory of New Hires, and the Passport Denial Program. Additionally, the FPLS has access to external locate sources such as the Internal Review Service (IRS), the Social Security Administration (SSA), Veterans Affairs (VA), the Department of Defense (DOD), and the Federal Bureau of Investigation (FBI). The FPLS is only allowed to transmit information in its databases to "authorized persons," which include (1) child support enforcement agencies (and their attorneys and agents); (2) courts, (3) the resident parent, legal guardian, attorney, or agent of a child owed child support; and (4) foster care and adoption agencies.

#### ***Chairman's Mark***

The mark includes Indian tribes and tribal organizations that operate a child support enforcement program as "authorized persons."

#### ***Reason for Change***

The Chairman's mark will give tribal child support enforcement programs access to the Federal Parent Locator Service, to which state child support enforcement agencies currently have access, so that they can use it to locate noncustodial parents to establish paternity and collect child support. This will increase child support collections to families, especially tribal families.

#### **Section 313 - Reimbursement of Secretary's costs of information comparisons and disclosure for enforcement of obligations on higher education act loans and grants**

#### ***Current Law***

Federal law (P.L. 106-113) authorized the Department of Education to have access to the National Directory of New Hires. The provisions were designed to improve the ability of the Department of Education to collect on defaulted loans and grant overpayments made to individuals under Title IV of the Higher Education Act of 1965. The Federal Office of Child Support Enforcement (OCSE) and the Department of Education negotiated and implemented a Computer Matching Agreement in December 2000. Under the agreement, the Secretary of Education is required to reimburse the HHS Secretary for the *additional* costs incurred by the HHS Secretary in furnishing requested information.

#### ***Chairman's Mark***

The mark amends the reimbursement of costs provision by eliminating the word additional. Thus, the Secretary of Education is to reimburse the HHS Secretary for any costs incurred by the HHS Secretary in providing requested new hires information.

***Reason for Change***

The Chairman's mark makes legislative language governing the Department of Education's access to the National Directory of New Hires consistent with general reimbursement language that applies to other entities.

**Section 314 - Technical amendment relating to cooperative agreements between states and Indian tribes**

***Current Law***

Federal law requires that any state that has a child welfare program and that has Indian country may enter into a cooperative agreement with an Indian tribe or tribal organization if the tribe demonstrates that it has an established tribal court system with several specific characteristics related to paternity establishment and the establishment and enforcement of child support obligations. The HHS Secretary may make direct payments to Indian tribes and tribal organizations that have approved child support enforcement plans.

***Chairman's Mark***

The mark deletes the reference to child welfare programs.

***Reason for Change***

This reference incorrectly refers to the child welfare program rather than the child support enforcement program.

**Section 315- Claims upon longshore and harbor workers' compensation for child support**

***Current Law***

The Longshore and Harbor Worker's Compensation Act is the federal worker's compensation law for maritime workers and persons working in shipyards and on docks, ships, and offshore drilling platforms. The Act exempts benefits paid by longshore or harbor employers or their insurers from all claims of creditors. Thus, Longshore and Harbor Worker's Compensation Act benefits that are paid by longshore or harbor employers or their insurers are not subject to attachment for payment of child support obligations.

***Chairman's Mark***

The mark amends the Longshore and Harbor Workers' Compensation Act to ensure that longshore or harbor workers benefits that are provided by the federal government or by private insurers are subject to garnishment for purposes of paying child support obligations.

***Reason for Change***

The Federal Longshore and Harbor Worker's Compensation Act (LHWCA) benefits that are paid by a self-insured entity or private insurer are not subject to attachment for payment of child support obligations. The Chairman's mark would allow garnishment of all LHWCA benefits for purpose of child support enforcement, thereby increasing child support collections.

**Section 316 - State option to use statewide automated data processing and information retrieval system for interstate cases**

***Current Law***

The 1996 welfare reform law mandated states to establish procedures under which the state would use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request from another state to enforce a child support order. This provision was designed to enable child support agencies to quickly locate and secure assets held by delinquent noncustodial parents in another state without opening a full-blown interstate child support enforcement case in the other state. The assisting state must use automatic data processing to search various state data bases including financial institutions, license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation, the assisting state is then required to seize any identified assets. This provision does not allow states to open/establish a child support interstate case.

***Chairman's Mark***

The mark allows an assisting state to establish a child support interstate case based on another state's request for assistance; and thereby an assisting state may use the CSE statewide automated data processing and information retrieval system for interstate cases.

***Reason for Change***

The Chairman's mark allows states that cannot now use their automated systems to provide high-volume automated administrative enforcement services in interstate cases to choose to open a case in order to assist other states in collecting child support. This will increase interstate child support collections.

**Section 317 - State law requirement concerning the uniform interstate family support act (UIFSA)**

***Current Law***

The 1996 welfare reform law (P.L. 104-193) required that on and after January 1, 1998, each state must have in effect the Uniform Interstate Family Support Act (UIFSA), as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.

Federal law requires states to treat past-due child support obligations as final judgments that are entitled to full faith and credit in every state. This means that a person who has a child support order in one state does not have to obtain a second order in another state to obtain child support due should the noncustodial parent move from the issuing court's jurisdiction. P.L. 103-383 restricts a state court's ability to modify a child support order issued by another state unless the child and the custodial parent have moved to the state where the modification is sought or have agreed to the modification. The 1996 welfare reform law (P.L. 104-193) clarified the definition of a child's home state, makes several revisions to ensure that the full faith and credit laws can be applied consistently with UIFSA, and clarifies the rules regarding which child support orders states must honor when there is more than one order.

#### ***Chairman's Mark***

The mark requires that each state's Uniform Interstate Family Support Act (UIFSA) must include any amendments officially adopted as of August 2001 by the National Conference of Commissioners on Uniform State Laws.

In addition, the mark clarifies current law by stipulating that a court of a state that has established a child support order has continuing, exclusive jurisdiction to modify its order if the order is the controlling order and the state is the child's state or the residence of any individual contestant; or if the state is not the residence of the child or an individual contestant, the court has the contestant's consent in a record or in open court that the court may continue to exercise jurisdiction to modify its order. It also modifies the current rules regarding the enforcement of modified orders.

#### ***Reason for Change***

The Chairman's mark updates an outdated reference to an older version of UIFSA.

#### **Section 318 - Grants to states for access and visitation programs**

##### ***Current Law***

The 1996 welfare reform law (P.L. 104-193) authorized grants to states (via CSE funding) to establish and operate access and visitation programs. The purpose of the grants is to facilitate noncustodial parents' access to and visitation of their children. An annual entitlement of \$10 million from the federal CSE budget account is available to states for these grants. Eligible activities include but are not limited to mediation, counseling, education, development of parenting plans, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements. The allotment formula is based on the ratio of the number of

children in the state living with only one biological parent in relation to the total number of such children in all states. The amount of the allotment available to a state will be this same ratio to \$10 million. The allotments are to be adjusted to ensure that there is a minimum allotment amount of \$50,000 per state for FY1997 and FY1998, and a minimum of \$100,000 for any year after FY1998. States may use the grants to create their own programs or to fund programs operated by courts, local public agencies, or nonprofit organizations. The programs do not need to be statewide. States must monitor, evaluate, and report on their programs in accord with regulations issued by the HHS Secretary.

### ***Chairman's Mark***

The mark increases funding for Access and Visitation grants from \$10 million annually to \$12 million in FY2006, \$14 million in FY2007, \$16 million in FY2008, and \$20 million annually in FY2009 and each succeeding fiscal year. The mark extends the Access and Visitation program to Indian tribes and tribal organizations that have received direct child support enforcement payments from the federal government for at least one year. The mark includes a specified amount to be set aside for Indian tribes and tribal organizations: \$250,000 for FY2006; \$600,000 for FY2007; \$800,000 for FY2008; and \$1.670 million for FY2009 or any succeeding fiscal year.

The mark increases the minimum allotment to states to \$120,000 in FY2006, \$140,000 in FY2007, \$160,000 in FY2008, and \$180,000 in FY2009 or any succeeding fiscal year. The minimum allotment for Indian tribes and tribal organizations is \$10,000 for a fiscal year. The tribal allotment cannot exceed the minimum state allotment for any given fiscal year.

The allotment formula for Indian tribes and tribal organizations that operate child support enforcement programs is based on the ratio of the number of children in the tribe or tribal organization living with only one parent in relation to the total number of children living with only one parent in all Indian tribes or tribal organizations. The amount of the allotment available to an Indian tribe or tribal organization would be this same ratio to the maximum allotment for Indian tribes and tribal organizations (i.e., \$250,000 for FY2006; \$600,000 for FY2007; \$800,000 for FY2008; and \$1.670 million for FY2009 or any succeeding fiscal year). (Pro rata reductions are to be made if they are necessary.)

### ***Reason for Change***

The Chairman's mark provides additional funding for the Access and Visitation Grant Program so that more families can benefit from these services. Increasing a child's access to both parents may improve child well-being and is associated with increased compliance in the payment of child support.

### **Section 319 - Timing of corrective action year for state noncompliance with child support enforcement program requirements**

#### ***Current Law***

Federal law requires that audits be conducted at least every 3 years to determine whether the standards and requirements prescribed by law and regulations have been met by the child support program of every state. If a state fails the audit, federal TANF funds must be reduced by an amount equal to at least 1 but not more than 2 percent for the first failure to comply, at least 2 but not more than 3 percent for the second failure, and at least 3 but not more than 5 percent for the third and subsequent failures.

The HHS Secretary also must review state reports on compliance with federal requirements and provide states with recommendations for corrective action. The purpose of the audits is to assess the completeness, reliability, and security of data reported for use in calculating the performance indicators and to assess the adequacy of financial management of the state program. Federal law calls for penalties to be imposed against states that fail to comply with a corrective action plan in the *succeeding* fiscal year.

#### ***Chairman's Mark***

The mark changes the timing of the corrective action year for states that are found to be in noncompliance of child support enforcement program requirements. The mark changes the corrective action year in which the sanction is imposed to the *fiscal year following the fiscal year* in which the Secretary makes a finding of noncompliance and recommends a corrective action plan. The change is made retroactively in order to allow the Secretary to treat all findings of noncompliance consistently. The mark also makes a special exception for noncompliances that occur in fiscal year 2001. If the HHS Secretary finds that the state has corrected such a noncompliance in fiscal year 2002 or fiscal year 2003, then the penalty is forgiven and no sanction is levied against the state for that noncompliance.

#### ***Reason for Change***

Current language does not recognize the time necessary to conduct federal audits and that those audits now occur during what is, under current law, a state's corrective action year. This technical correction will give states a full year to correct identified deficiencies.

### **Section 320 - Requirement that State Child Support Enforcement Agencies Seek Medical Support for Children from Either Parent**

#### ***Current Law***

Federal law requires that a state CSE agency issue a notice to the employer of a noncustodial parent, who is subject to a child support order issued by a court or administrative agency, informing the employer of the parent's obligation to provide health care coverage for the child(ren). The employer must then determine whether family health care coverage is available for which the dependent child(ren) may be eligible, and if so, the employer must notify the plan administrator of each plan covered by the National Medical Support Notice. If the dependent child(ren) is eligible for coverage under a plan, the plan administrator is required to enroll the dependent child(ren) in an appropriate plan. The plan administrator also must notify the

noncustodial parent's employer of the premium amount to be withheld from the employee's paycheck.

***Chairman's Mark***

The mark requires that medical support for a child be provided by either or both parents and that it must be enforced. The mark includes language that authorizes the state CSE agency to enforce medical support against a custodial parent whenever health care coverage is available to the custodial parent at reasonable cost. It stipulates that medical support may include health care coverage (including payment of costs of premiums, co-payments, and deductibles) and payment of medical expenses incurred on behalf of a child.

***Reason for Change***

To improve enforcement of medical support.

**Section 321 - Notice to State Child Support Enforcement Agency from Health Care Plan Administrator Under Certain Circumstance When a Child Loses Health Care Coverage**

***Current Law***

Federal law requires the health care plan administrator to notify qualified beneficiaries of their beneficiary rights with regard to health care coverage when or if one of the following events occurs: (1) the noncustodial parent with the health care coverage dies; (2) the noncustodial parent with the health care coverage loses his or her job or starts working fewer hours; (3) the noncustodial parent with the health care coverage becomes eligible for Medicaid benefits; (4) the noncustodial parent with the health care coverage becomes involved in a bankruptcy proceeding pertaining to his or her former employer; (5) the noncustodial parent with the health care coverage gets divorced or obtains a legal separation; or (6) the child of the noncustodial parent with the health care coverage ceases to be a dependent child. (With respect to (5) and (6), the noncustodial parent (i.e., the covered employee) is required to notify the health care plan administrator of such an event.)

***Chairman's Mark***

The mark requires the health care plan administrator to notify the state CSE agency if the noncustodial parent with the health care coverage dies, loses his or her job or is working fewer hours, becomes eligible for Medicaid benefits, or is involved in a bankruptcy proceeding pertaining to the noncustodial parent's former employer. In addition, the mark requires the health care plan administrator to notify the state CSE agency if the noncustodial parent with the health care coverage gets divorced or obtains a legal separation, or if the noncustodial parent's

child ceases to be a dependent child (in cases where the noncustodial parent has notified the plan administrator of such an occurrence).

***Reason for Change***

To improve notification of a state CSE agency.

**Section 322 – Authority to Continue State Program for Monitoring and Enforcement of Child Support Orders**

***Current Law***

Federal law stipulates that the following families automatically qualify for Child Support Enforcement (CSE) services: families receiving Temporary Assistance to Needy Families (TANF) benefits (Title IV-A), foster care payments (Title IV-E), Medicaid coverage (Title XIX), or food stamps (if cooperation is required by the state). Other families (i.e., nonwelfare families) must apply for CSE services. The state of Texas currently has a waiver of the requirement for a written application for CSE services for nonwelfare families (Section 1115 of the Social Security Act). In participating counties, these nonwelfare families are automatically a part of the CSE caseload. Texas' five-year waiver is scheduled to expire in 2006.

***Chairman's Mark***

The mark allows the state of Texas to continue to operate its CSE program for monitoring and enforcement of court orders on behalf of a nonwelfare families without applying for a federal waiver. Currently the state of Texas does not require these families to *apply* for CSE services.

***Reason for Change***

To continue the improvements to CSE in the state of Texas.

**Section 323 – Technical Amendment Relating to Information Comparisons and Disclosure to Assist in Federal Debt Collection**

***Current Law***

P.L. 108-447, the Consolidated Appropriations Act of 2005, added provisions related to the comparison of data from the Secretary of the Treasury with data in the National Directory of New Hires for the purpose of collecting nontax debt owed to the federal government.

***Chairman's Mark***



The mark makes technical changes to the Consolidated Appropriations Act of 2005 with respect to references to Title IV-D provisions related to information comparisons and other disclosures.

## **TITLE IV – CHILD WELFARE**

### **Section 401 - Clarification of Eligibility for Foster Care Maintenance Payments**

#### ***Current Law***

Requires states, with approved state plans under title IV-E of the Social Security Act, to make foster care maintenance payments on behalf of each child who would have met the eligibility requirements for Aid to Families with Dependent Children (AFDC) (as AFDC existed in the state on July 16, 1996) but for the child's removal from the home of a relative, if the removal from home occurred pursuant to a voluntary placement agreement or judicial determination meeting certain criteria; if the child's placement and care are the responsibility of the state or a public agency under an agreement with the state; if the child is placed in a licensed home or institution; and if the child would have received AFDC (under the rules of July 16, 1996) in the month the voluntary agreement was entered or the court proceeding began (if application had been made), or if the child had been living with a specified relative within six months before the month that the agreement was entered or the proceeding began and would have received AFDC in that month if living with the relative (and application had been made).

#### ***Chairman's Mark***

Includes provision to clarify the Ninth Circuit decision in *Rosales v. Thompson* (March 3, 2003) to reinstate longstanding Foster Care policy to reaffirm the historic rule that a child is eligible for federal foster care only if the child, while living in the home from which he or she was removed into foster care (the "home of removal"), would have been eligible for Aid to Families with Dependent Children (AFDC), if the AFDC program were still in effect.

#### ***Reason for the Change***

There is a need to clarify the court decision to reaffirm HHS policy and to ensure consistent treatment of children throughout the country.

### **Section 402 – Extension of Authority to Approve Demonstration Projects**

#### ***Current law***

Permits the HHS Secretary to approve waivers (state demonstration projects) that are likely to promote the objectives of the child welfare programs authorized under Title IV-B and Title IV-E. This authority is granted through March, 31 2005.

#### ***Chairman's Mark***

Extends this authority through FY2010.

### **Section 403 – Removal of Commonwealth of Puerto Rico IV-E Funds From Limitation on Payments**

#### ***Current law***

Provides that, with the exception of certain bonus, loan and evaluation funding under Title IV-A, the total amount of funds Puerto Rico may receive under Title IV-A (TANF), Title IV-E (Foster Care, Adoption Assistance, Adoption Incentives, and independent living programs), and several other Titles (providing assistance to aged, disabled and blind) may not exceed a certain sum specified in the law.

#### ***Chairman's Mark***

The mark would exempt Title IV-E funding from this cap but never more than \$6,250,000 in a given fiscal year and only if the amount of the Title IV-E funds claimed in the given year exceed funding for the same purposes in a given previous year. It also would provide the adoption incentive bonuses would not count against a territories' overall cap.

#### ***Reason for Change***

To provide Puerto Rico flexibility in their Title IV-E program.

### **Section 404– Authority of Indian Tribes to Receive Federal Funds For Foster Care and Adoption Assistance**

#### ***Current Law***

Title IV-E foster care and adoption assistance programs may be operated by "states," which are defined as each of the 50 United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. These plans must be in effect in all political subdivisions of the state and standards established for approving foster care homes must be "reasonably" in accord with recommended standards of national organizations concerned with foster care placement. States are reimbursed for foster care maintenance and adoption assistance payments made on behalf of eligible children at the applicable federal medical assistance percentage (ranging from 50%-83%); this percentage is based on the state's per capita income. Administrative expenditures related to serving children eligible for federally reimbursed maintenance payments and adoption assistance are generally at 50%, with 75% reimbursement for certain training costs.

States that operate a foster care program must make foster care maintenance payments on behalf of eligible children removed from their homes if the child's placement and care are the responsibility of the state child welfare agency or the responsibility of another public agency with whom the state child welfare agency has a currently effective agreement.

### ***Chairman's Mark***

The bill allows, beginning in FY 2006, an Indian tribe or intertribal consortium to operate Title IV-E foster care and adoption assistance programs under the same provisions as those applying to states (with certain specified exceptions). Tribal plans will be allowed to define service areas where a plan is in effect and to grant approval of foster homes based on tribal standards that ensure the safety of, and accountability for, children placed in foster care. To establish the applicable federal reimbursement rate for eligible foster care maintenance and adoption assistance payments made under a tribal plan, the HHS Secretary is required to determine a tribe's federal medical assistance percentage based on the per capita income of the service population defined in the Title IV-E tribal plan.

The bill also permits an Indian tribe or intertribal consortium and a state to enter into a cooperative agreement for administering or paying funds under Title IV-E. Any cooperative agreement in effect prior to the enactment of this law remains in effect unless either party to the agreement chooses to revoke or modify the agreement, according to the terms of that agreement.

The bill requires a state to make foster care payments on behalf of an eligible child whose placement and care is the responsibility of an Indian tribe or intertribal consortium if that tribe or consortium is not operating its own Title IV-E foster care program and it has a cooperative agreement with the state or it has submitted to the HHS Secretary a description of the arrangements made between the tribe or consortium and state for provision of child welfare services and protections required under Title IV-E.

The HHS Secretary is required to issue regulations to carry out provisions related to the tribal IV-E plan within 1 year after enactment. Current TANF provisions concerning eligible entities in Alaska are applied for this program.

### ***Reason for change***

Currently, tribes are able to operate child welfare programs and remain ineligible for direct federal funding to do so. The provisions in the Chairman's Mark provide tribes with direct access to IV-E funding and opportunities to create culturally relative foster care programs while respecting the importance of sovereignty.

### **Section 405 – Technical Corrections**

#### ***Current law***

Provides that the HHS Secretary may not waive compliance with certain provisions under Title IV-B and IV-E, including those provisions under "Section 422(b)(9)".

#### ***Chairman's Mark***

Changes this reference to Section 422(b)(10). This technical correction is necessary because the cited language was renumbered in 1997 (P.L.105-33) without the necessary conforming amendment to this section.

## **TITLE V – SUPPLEMENTAL SECURITY INCOME**

### **Section 501 - Temporary Expansion of Length of Time-Limited Eligibility for Qualified Aliens for Supplemental Security Income Benefits**

#### ***Current Law***

Asylees and refugees (as well as Cuban/Haitian entrants, certain aliens whose deportation/removal is being withheld for humanitarian reasons, and Vietnam-born Amerasians fathered by U.S. citizens) are eligible for SSI for 7 years after entry/grant of such status. Under current law, such aliens are ineligible after 7 years unless they become naturalized citizens.

#### ***Chairman's Mark***

The chairman's mark extends the period of SSI eligibility for 7 to 9 years for the period beginning with the date of enactment through September 30, 2008.

#### ***Reason for Change***

The mark recognizes that some elderly and disabled refugees have been unable to obtain U.S. citizenship within 7 years due to a combination of processing delay, and, for asylees statutory caps on the number who can become permanent residents each year.

## **TITLE VI – TRANSITIONAL MEDICAL ASSISTANCE**

### **Section 601– Transitional Medical Assistance**

#### ***Current Law***

The law requires transitional medical assistance (TMA) – from 6 to 12 months – for those whose lose Medicaid eligibility because of increased income arising from work (higher wages or more hours of work). Authorization for 6-12 months of TMA expired on September 30, 2002, but was extended by through March 31, 2005. (Permanent provisions of law require 4 months of transitional medical benefits to families who lose Medicaid eligibility because of income from child or spousal support or from earnings.)

#### ***Chairman's Mark***

The Chairman's mark provides for the extension and simplification of the Transitional Medical Assistance Program (TMA). The mark provides for the option of continuous eligibility for 12 months and the option of continuing coverage for up to additional year. The mark provides for a state option to waive receipt of Medicaid for 3 of previous 6 months to qualify for TMA. The mark provides for a additional provisions dealing with the collection and reporting of information, coordination and other improvements.

***Reason for Change:***

The Chairman's Mark recognizes that Medicaid is an important part of the safety net for needy families, and that health care is a critical support for low-income families as they transition from welfare to work and self-sufficiency, particularly for families with entry-level employment.

**TITLE VII – EFFECTIVE DATE**

***Current Law***

Funding for TANF, mandatory child care, and abstinence education, along with the authority for Transitional Medicaid, expire on March 31, 2005.

***Chairman's Mark***

Funding for TANF, mandatory child care, and abstinence education, along with the authority for Transitional Medicaid, is extended on current terms through September 30, 2005, except where explicitly provided for by this act. FY2005 funding for the High Performance Bonus is reduced to \$100 million.

Unless otherwise specified, provisions take effect on October 1, 2005. However, if the Secretary determines that state legislation is required for a State TANF or Child Support plan to conform with the Act, the effective date is delayed to three months after the first day of the first calendar quarter beginning after the close of the first regular session of the legislature that begins after enactment of this Act. If the state has a 2-year legislative session, each year is to be considered a separate regular session.

**Statement for Senator Jim Bunning**  
**March 9, 2005**  
**Finance Committee Markup of the**  
**Personal Responsibility and Individual Development for Everyone Act**

Mr. Chairman, I appreciate that we are taking time to vote on the reauthorization of the welfare program today.

In 1996, Congress passed the Temporary Assistance to Needy Families Act and fundamentally changed the way people think of welfare. TANF was a great success, with states reducing their welfare rolls by more than half. Those reforms were a great achievement for Congress.

However, TANF expired in 2002, and Congress has been using short extensions since then to keep the program running. That's not the best way for any government program to operate.

Today, we are taking the first step to reauthorize the program this year. We tried to pass a bill last year, but it got held up on the Senate floor. This year, it looks like we will have some members on the other side of the aisle supporting our efforts, which generally makes things easier.

I want to particularly thank the Chairman for including a provision in his bill that I offered last year dealing with Abstinence Only education. Each year, states receive money for Abstinence Only education through a formula grant. This money is important because it reinforces to our young people that abstinence is the best way to prevent an unwanted pregnancy or decrease sexually transmitted diseases.

However, there are a couple of states that do not use their Abstinence Only funding. Currently, the unused money reverts back to the general fund.

My amendment last year would have allowed any unused Abstinence Only education money to be reallocated to other states that could use it. It just makes sense to me that if one state chooses not to use their money, another state should be able to have access to it.

This provision has been included in the Chairman's Mark and I appreciate his help in this area.

I hope we can finally get the TANF reauthorization through Congress and onto the President's desk this year. We shouldn't delay another year.

Thank you.



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

Opening Remarks of Senator Chuck Grassley of Iowa  
Chairman, Senate Committee on Finance  
Markup of PRIDE  
Wednesday, March 9, 2005

We are here today to mark up the Personal Responsibility and Individual Responsibility for Everyone – or PRIDE – bill. This is the reauthorization of the 1996 welfare reform bill.

I'm very pleased that this is a proposal that is supported by myself and my colleague, Senator Max Baucus. During the 107th Congress when Senator Baucus was chairman, I was unable to support his WORK bill. During the 108th Congress, when I was chairman, Senator Baucus was unable to support the first version of the PRIDE bill. I believe that the inability of Senator Baucus and I to come to an agreement on these policies over the span of these two congresses is the reason why we have not been able to enact a meaningful welfare reform reauthorization.

I have often said that nothing happens in the Senate unless it is bipartisan. This is particularly true of the Senate Finance Committee. The Senate Finance Committee has a long history of bipartisanship. Senator Baucus and I have a long history of working together on a number of important issues. As I remarked during the mark up of the PRIDE bill during the 108th Congress, there were more similarities than differences between Senator Baucus' bill and my bill.

I'm very pleased that we were able to work through the small number of outstanding differences and come to an agreement that we both can support. Senator Baucus and his able staff have worked hard and in good faith with me and my staff in crafting this proposal. We have both compromised to get to this agreement. I've compromised on extending the types of activities that can count towards the work requirement. Senator Baucus has compromised on the issue of federal funding for healthy marriage promotion activities. But that is how we get things done in the Senate Finance Committee. We compromise and move the process forward.

And it is important that we move forward on the issue of welfare reform. For too many years, states have operated their welfare programs under a cloud of uncertainty. Child care funding has remained static. Because of the way the case load reduction credit has functioned most states have no effective work participation requirement. It's important that we give states some clear direction, that we improve state flexibility, and that we strengthen work and promote healthy families. I believe that the legislation we will mark up today represents many improvements over current law.

One set of improvements includes an increase in mandatory child care funding, additional

funding for Title XX, the Social Services Block Grant, and mandatory funding for fatherhood programs. I want to commend Senator Santorum for his continued leadership on the issue of welfare reform and for his support of a \$1 billion/5 increase in mandatory child care money, his support for increasing funding for SSBG and his support for funding for fatherhood programs. Getting to a bipartisan compromise on a mandatory child care increase has been a difficult hurdle for many years. This morning, I will place before the committee a modification to the chairman's mark that represents what I believe is a reasonable compromise on the level of child care funding.

This proposed compromise includes a total of \$6 billion for child care and it also includes the \$1 billion in additional funding for SSBG and mandatory funding for fatherhood programs. In addition, this additional spending the compromise adds to the chairman's mark is fully offset. Some will no doubt feel that the additional child care funding included in the modification to the chairman's mark is too high. I appreciate that position.

However, the Senate is on record as voting to increase child care spending a total of \$7 billion over five years with \$6 billion paid for by extending custom users fees. Last year, the amendment offered by Senators Snowe, Dodd and Hatch passed the Senate by a vote of 78 to 20. The majority of members on both the Republican and Democratic side voted for that amendment. For members who are concerned about the increased level of spending, I would say if we had waited until we considered this bill on the Senate floor, I think it is fairly certain that we would see amendments to increase this funding much higher than \$6 billion.

There are those members who do not think \$6 billion is enough. For those of us who have been working on this issue for more years than we care to remember, we recall that \$11.25 billion had been considered insufficient. For those members, I would urge you not to let the perfect be the enemy of the good. What we have in the proposed compromise is a real opportunity to substantially increase child care funding and members who care about this issue ought to take it.

I believe that the figure Senator Baucus and I have agreed to include in the modification of the chairman's mark represents a reasonable attempt to find common ground. Let me explain why. There has been no increase in federal child care funding since 2002. The original welfare bill provided for regularly mandatory increases in child care funding. Because we have been unable to reauthorize the 1996 welfare bill, child care funding has remained static at 2002 levels, yet child care costs have risen over time. CBO estimates that \$4.8 billion is needed over five years to maintain the current level of participation. I believe that it is reasonable to accommodate the rising costs of living and inflation. Just as we routinely get cost-of-living increases, so do child care providers.

Additionally, I believe that, while the legislation we will consider today makes significant improvements to the current work requirements, those improvements are not without cost. CBO estimates that the additional child care costs associated with states meeting the increased work requirements of the PRIDE bill total \$924 million over 5 years. Therefore, in order to provide for the increased costs to cover inflation as well as to pay for the child care costs of the new work requirement we would need to increase child care spending \$5.7 billion over 5 years.

The modification to manager's amendment includes a little more than that, but not much



more. Additionally we "pay for" this increase by closing some loopholes in the EITC program and other loop holes. As I have said, we are attempting to strike a balance between those who would prefer a much more substantial increase in child care and those would prefer no increase. It is always a challenge to stake out common ground, especially on such a tough issue, but I think we have come up with responsible and a reasonable compromise and I would urge colleagues on both sides of the aisle to support it.

I'd also like to recognize the work done by a number of key members of the Senate Finance Committee. Senator Santorum, Senator Hatch, Senator Rockefeller, Senator Snowe, Senator Lincoln and Senator Jeffords have all contributed to a number of important provisions in the legislation we are considering today. I appreciate their long history of bipartisan work on the important issues associated with welfare reform. We're also indebted to our former colleague Senator John Breaux whose leadership help produce the tri-partisan proposal in the 107th Congress, on which a number of key provisions in the PRIDE bill are based. I have additional remarks that I would like to be included in the committee record.

For the record —

The 1996 welfare reform bill ended the individual entitlement to assistance. This key reform has largely contributed to a significant and unexpected decline in the welfare rolls. The negative outcomes predicted by some have not materialized. A number of key indicators that relate to child poverty and employment have shown improvement.

However, there is more that we should be doing to help families living in deep and persistent poverty. The average welfare check for a family receiving cash assistance is \$350 a month. That averages out to eleven dollars a day. It has often been said that a society should be judged by how it treats its most in need. We are not doing these families, and the children in them, any favors by allowing them to continue living in the isolation and despair of deep and persistent poverty.

Many argue that the way to move families into self-sufficiency is to encourage additional work. The PRIDE bill recognizes that the success achieved by TANF and Work First programs are a result of a sustained emphasis on adult attachment to the workforce. The PRIDE bill would build on the success of the past by increasing work hours for individuals and work participation rates for states. However, the bill would provide for "partial credit" for hours below the 34-hour standard set in the mark. This approach recognizes that some recipients might not meet the full-time standard; for example, persons in unsubsidized employment might be employed part-time or part of the month. This approach also recognizes that states may expend significant resources moving an individual from zero hours of activity into 20 hours of activity. States should get credit towards their participation rate for that type of effort.

While some believe that work is the way to self-sufficiency, there are also those who believe that the best way to move families into self-sufficiency is through state flexibility in terms of what activities can count towards the participation rate. The PRIDE bill includes activities that maintain all the flexibility of current law and adds new flexibility in countable activities. The bill would allow states to engage recipients in short-term "barrier" removal activities for 3 months in a 24-month period. Many states have such programs and some have done these under "waivers." The bill would expand the list of activities that count after a

recipient has engaged in core work activities for 24 hours. It would encourage states to provide post-employment activities, particularly education or additional job search, for working recipients to enhance their job skills and training to advance and leave welfare. I believe the approach envisioned in the PRIDE bill is an appropriate compromise between these perspectives, one which favors work and one which favors increased flexibility.

There are two main reasons why families fall into poverty. One is a lack of work skills and the other is a result of a single parent having to raise a child alone.

I see healthy marriages as having important economic implications for children. The poverty rate for all children in married-couple families is 8.2 percent. By contrast, the poverty rate for all children in single-parent families is four times higher at 35.2 percent. I also see healthy marriages as having implications for child well-being. Research shows that children born or raised in single-parent families are more at risk for a wide range of social maladies, including poverty, welfare dependency, academic failure and crime. The chairman's mark would direct \$100 million a year for matching grants to states for programs to promote healthy marriages and \$100 million a year for research, demonstrations and technical assistance primarily associated with marriage.

Activities that could be supported by these funds include: education in high schools on relationship skills and budgeting; marriage skills and relationship skills programs which may include: parenting skills, financial management, conflict resolution and job and career advancement as well as divorce reduction programs that teach relationship skills. It is important to note that the the chairman's mark includes provisions which make it clear that participation in these programs is strictly voluntary and there must be coordination with domestic violence specialists.

I believe that the PRIDE bill promotes good policy both by emphasizing work and healthy families. I am hopeful that the Senate will move to pass the bill shortly. I believe that it will improve the move from dependence to self-sufficiency. I urge my colleagues to support the bipartisan PRIDE bill.

**Statement of Senator Gordon H. Smith**  
**TANF Markup**  
**March 9, 2005**

Mr. Chairman I thank you and your staff for working so diligently in the past few months to prepare this bill for mark up. I am pleased that you have put together a bill that has generated bipartisan support and it is my hope that we will have an opportunity to come together and pass this bill favorably for consideration on the Senate floor.

As many of you know, I am very proud of the work my home state of Oregon has done to transition people from welfare to work. I believe that the bill before us today will be another positive step towards helping the people of Oregon. I commend the Chairman for his willingness to work with me to ensure persons with significant barriers are not left behind. I will be offering an amendment that allows states the option of engaging persons with disabilities, mental illness, and substance abuse problems by combining rehab services with work. I am proud of the support this amendment has received from disability, state and local groups. I thank the Chairman for supporting my amendment.

I am also pleased to see that the Chairman has included a provision in this bill capturing the policy I authored in S. 453 to provide refugees, asylees and certain other humanitarian immigrants with Supplemental Security Income (SSI) benefits for an additional two years. Unfortunately, the naturalization process often takes longer than seven years because applicants are required to live in the United States for a minimum of five years prior to applying for citizenship and the INS often takes three or more years to process the application. Because of this time delay, many individuals are trapped in the system faced with the loss of their SSI benefits. This provision will help ensure these refugees and asylees are not abandoned while they work to obtain their citizenship.

Mr. Chairman, as you know, Oregon currently operates under a waiver that does not include the standard 60-month limit on receipt of benefits. With passage of this bill expected, Oregon is concerned that they will need additional time to fulfill their responsibility to inform clients that their 60 month time limit began retroactively to July 2003. The state is chiefly concerned that as written the bill would make the state liable for not notifying their clients that they are subject to a 60 month time limit on the date their benefits began. I am pleased that you have agreed to continue working with Senator Wyden and myself to remedy this issue. It is of utmost importance that Oregon has the tools to transition smoothly from their waiver to the provisions in this bill.

Lastly, I am pleased that you have included provisions that will ensure that states that are making improvement towards increasing their participation rate are not penalized. Under this bill, States who improve their work participation rates by 5 percent compared to the previous year and that file a corrective compliance plan will not be subject to fiscal penalties from the federal government. I have long been a supporter of this provision and I look forward to supporting today's bill.

Thank you again for your hard work Mr. Chairman.

**Statement**  
**Sen. Rick Santorum**  
**Senate Finance Committee Hearing**  
**March 9, 2005**

Mr. Chairman, Congress has an important opportunity and responsibility to build on the significant successes of the 1996 Welfare Reform Act. For too long we have been doing temporary extensions- eight since 2002- which has the effect of eliminating the work requirement because of the success of the caseload reduction credit. The states have not been able to plan and this has been to the detriment of those in need of a helping hand. I would like to thank Chairman Grassley for his continued leadership and am pleased that some of my Democratic colleagues have become active participants this year.

Since the bipartisan reforms of 1996 which strengthened work and increased state flexibility, poverty has dropped substantially. For example, some 2.3 million fewer children live in poverty today than in 1996. Decreases in poverty have been greatest among African-American children. Hunger among children has been cut almost in half. The welfare caseload has been cut nearly in half. Employment of single mothers has increased greatly. The explosive growth of out-of-wedlock childbearing has come to a virtual halt. Yet more can be done, and we need to build on the successes and lessons of our eight years of experience. The challenge before the Committee and the Senate is to build upon the success and lessons of welfare reform.

Government should not be neutral on the question of whether or not healthy marriages are beneficial for the well-being of children. The evidence is overwhelming that marriage benefits children. One significant contribution of President Bush's welfare reform initiative is trying to put an end to one of the greatest social tragedies in the past thirty years: the undermining of the institution of marriage and its impact on children. As a result of the soaring rates of divorce and illegitimacy, the percentage of children growing up without a father nearly tripled between 1960 and the early 1990s. This has grave economic repercussions. Eighty percent of all poverty in the United States is linked to the breakdown of the family. The child poverty rate for intact married families who remain married is 7%. For children in households where their mother was never married, the poverty rate is 51%. A child raised by a never-married mother is more than 7 times more likely to be poor than a child raised in an intact marriage. A child born and raised outside of marriage will receive some type of means-tested welfare aid (TANF, food stamps, Medicaid, WIC, or SSI) during 71% of his childhood; by contrast, a child born and raised inside marriage will receive some form of welfare assistance during 12% of his childhood.

Unfortunately, the old welfare regime compounded this problem by penalizing marriage. The program was based on a faulty system whereby benefits were reduced as non-welfare income increased. Single mothers received greater benefits if they remained single than if they married a working husband. The father's earnings were used against the mother's welfare eligibility. This caused the couple's welfare benefits to be reduced dramatically, thus decreasing the couple's combined income. The single mother was forced either to choose the child's emotional well-being (living with a father) or financial security.

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The Welfare Reform Act (P.L. 104-193) included purposes to "end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage." A number of states including Oklahoma and Arizona have experimented in the years since with practical efforts to encourage the formation and maintenance of two-parent families through marriage initiatives. The President's initiative seeks to build on these successful efforts to promote marriage and strengthen family relationships among low-income Americans. He proposes to devote \$300 million dollars a year to this effort to help state and local initiatives. The plan will also address the restrictions that keep poor women from marrying the fathers of their children. It will encourage poor parents to develop healthy and long-lasting marriages. Pre-marital counseling and responsible fatherhood programs are among the efforts to achieve this end. For every marriage that succeeds, a child is more likely to avoid welfare dependence. Healthy marriages do not just happen, they require commitment and work. People can be helped by supportive education, communication skills training, and mentoring. The Healthy Marriage Initiative is a voluntary program, and we need to encourage a variety of efforts throughout the country and evaluate their success.

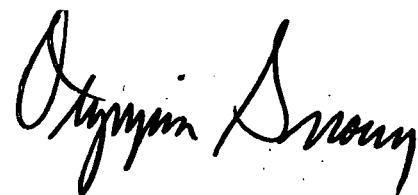
The social ramifications of absentee fathers are dramatic and worthy of a sustained focus by neighborhood healers and social entrepreneurs. The breakdown of the American family is a greater social problem than the national debt, Social Security insolvency and budget deficits--*precisely* because of the effects it has on children. According to *The Positive Effects of Marriage: A Book of Charts* by Patrick Fagan, Robert Rector, Kirk Johnson, and America Peterson (The Heritage Foundation, 2002), children who grow up in never-formed or broken families are at a greater risk of dropping out of school, experimenting with drugs, and engaging in violent behavior. Fatherless children are five times more likely to be poor, three times more likely to fail at school and two times more likely to experience emotional or behavioral problems requiring psychiatric treatment. The welfare of children should be society's main concern. As President Bush stated: "Strong marriages and stable families are incredibly good for children, and stable families should be the central goal of American welfare policy."

Despite the critics, welfare reform is strongly supported by both Republicans and Democrats. The President's initiative has attracted such broad-based approval because there is a widespread realization--among conservatives and liberals--that promoting marriage and family stability is essential to overcoming poverty and ending the degrading cycle of welfare dependency.

In the same way, the evidence shows that absent fathers hurt the well-being of children. The President includes funding for specific initiatives to encourage the absent fathers to become active in the lives of their children. The evidence is also powerful on the positive impact for children, absent two-parent families, to have the active participation and support of fathers, whether married or not. I am pleased that the Responsible Fatherhood Initiative which I have been working on with Senator Bayh and Senator Domenici is included in this bill. This important initiative complements efforts to promote healthy marriages and the well-being of children.

I am also pleased that the bill begins to restore the Social Services Block Grant (SSBG) funding from the current baseline of \$1.7 billion a year to \$1.9 billion a year. This block grant

created by President Ronald Reagan consolidated many critical social service programs. I also look forward to working with the Committee and the Senate to strengthen incentives for work, strengthen low-income families, encourage abstinence, expand the opportunity for partnerships with community and faith-based organizations addressing poverty and barriers to self-sufficiency, and support child care needs in an effort to continue to build on the successes of welfare reform. The time is long overdue to renew this critical program. Thank you.



Statement of United States Senator Olympia J. Snowe  
Finance Committee Welfare Mark-Up  
March 9, 2005

March 8, 2005 v3 at 11:30 am

**Mr. Chairman, I want to thank you and Senator Baucus for holding this mark up today. I appreciate the Chairman's and Ranking Member's effort and commitment to move ahead with this vital reauthorization before the current act expires at the end of this month.**

**We have all had to make tough decisions, and we know that this bill has been the subject of party-line votes in the past. So I am pleased that after three years we are ready to move forward in a bipartisan manner, which provides both a vital safety net and also critical work supports to lower-income Americans. Last year, this Committee was able to mark-up and report legislation, and I commend the Chairman and Ranking Member on their leadership in making that happen. However, as we know, there were issues that interceded on the floor that, in the end, precluded further consideration of the bill.**

**So clearly, we have a serious "overdue notice" when it comes to welfare re-authorization, and it is time for us to enact a specific blueprint for TANF for the future – one that builds on past successes while addressing the shortcomings revealed by time. On that note, I believe this mark, which enhances work requirements but also improves flexibility for states to help remove barriers to employment – contains a number of positive provisions to set us on that course.**

As was the case last year, the bill rightly recognizes that some families have *longer-term* barriers that must be faced. For example, the mark includes provisions I've supported and helped develop to count people who are care givers of a disabled dependent as meeting the requirements under certain circumstances. And the mark gives states flexibility by providing partial credit toward a state's work participation rate when there's partial compliance with hourly requirements by recipients.

Indeed, once again this year, this bill reflects a considerable, good-faith effort to close some of the political and policy gaps. Perhaps some would prefer additional work hours, for example, but again this year we are moving ahead through compromise, and I hope the full Senate will ultimately move forward because it's time that these programs had a blueprint for the future.

One provision in particular I believe must be part-and-parcel of any bill that is eventually passed is adequate child care funding. Now, I understand there are honest differences of opinion on the amount. But I believe there shouldn't be any question of the *need*.

And it is also true that if the aim of welfare reform is to move people off the welfare rolls and onto payrolls, providing support in the form of quality child care is a prerequisite to realizing that goal. So I am pleased the mark includes an element critical to the success of welfare reform – mandatory child care funding. There was one billion dollars in the bill we reported out of committee in September of 2003. And in March of 2004, I introduced an amendment on the Senate floor that added six billion dollars to provide additional funding for child care which passed 78-20. This would have provided a total of seven billion dollars in child care funding.



As a matter of compromise, this mark includes the original one billion dollars as well as an additional five billion in child care funding which is entirely offset. While the amount in this year's mark is less than what passed on the Senate floor just one year ago, I believe six billion in child care funding corresponds to the genuine need faced by parents trying to get off of welfare.

These offsets identify and close loopholes in the Earned Income Tax Credit (EITC) and the Child Tax Credit that Congress never intended to allow. For example, Congress never intended that people living overseas, making close to a hundred thousand dollars annually to be eligible for Child Tax Credit. Similarly, loopholes currently exist that allow people with nonworking social security numbers – people who can not legally work in this country – to claim the EITC. If you are not eligible to work, you should not be able to take the EITC. Finally, these offsets correct an unintended feature of the new uniform definition of child, to ensure that the EITC goes to the most needy in our country and to clarify under which circumstances in which siblings and family members other than parents are eligible for the EITC.

I would like to thank the staffs of Senator Grassley and Senator Baucus for their tireless efforts in reaching this agreement. Mr. Chairman, I believe these provisions will secure the future success of TANF because they undergird the original intent of the legislation back in 1996 – and that is to assist states in helping TANF *clients* to move onto payrolls and to *remain* employed.

Moreover, as happened last year, I'm hopeful these provisions will ensure that a bill will be reported from this committee so this critical matter can be considered on the floor. And so I'm pleased the Chairman's mark once again retains many of the measures Senators Hatch, Breaux, Jeffords, Lincoln, Rockefeller and I included in our "consensus" bill in 2002, including

child support distribution, the employment credit, education and training requirements, universal engagement provisions, and fixes to the contingency fund.

Moreover, I want to thank the Chairman for including a provision for an expanded state flexibility option – that was accepted as an amendment last year here in the Committee – based on my home state’s highly successful “Parents as Scholars” program which allows up to 10 percent of the TANF caseload to take part in longer duration and post-secondary education. This program has been wildly successful – with graduates averaging a 50 percent increase in salaries, and with 90 percent of working graduates leaving welfare permanently. The bottom line is, increased *education is another* critical factor in whether a person will transition *off* welfare and *keep* a job with a decent income and I’m grateful this provision is in the Chairman’s mark.

It is important to move ahead in a bipartisan manner to reauthorize this legislation precisely because it moves individuals toward self-sufficiency through vocational training and post secondary education opportunities. This legislation also contains critical provisions that ensure parents receive more of the child support money states’ collect on their behalf.

In the end, once again, we have a responsibility to learn from the past eight years – to augment successes and address the weaknesses. But most of all, we have an obligation to pass a bill into law for the over two million families who remain on the caseloads as well as those who are receiving work supports through TANF – the overwhelming majority of whom want nothing more than to travel a path that leads to permanent self-sufficiency. My sincere hope is that cooperation will continue to be the watchword in ensuring we fight off any contentious amendments that may arise during floor debate so we can get this done *this year*. Thank you, Mr. Chairman.