

1 EXECUTIVE COMMITTEE MEETING ON A SUBSTITUTE FOR H.R.  
2 4737, THE WORK, OPPORTUNITY, AND RESPONSIBILITY FOR KIDS  
3 (WORK) ACT OF 2002  
4 TUESDAY, JUNE 26, 2002  
5 U.S. Senate,  
6 Committee on Finance,  
7 Washington, DC.

8 The meeting was convened, pursuant to notice, at  
9 10:09 a.m., in room 215, Dirksen Senate Office Building,  
10 Hon. Max Baucus (chairman of the committee) presiding.

11 Also present: Senators Rockefeller, Breaux, Conrad,  
12 Graham, Jeffords, Bingaman, Kerry, Lincoln, Grassley,  
13 Hatch, Murkowski, Nickles, Gramm, Lott, Snowe, Kyl, and  
14 Thomas.

15 Also present: John Angell, Staff Director; Mike  
16 Evans, Chief Counsel and Deputy Staff Director; Kolan  
17 Davis, Republican Staff Director and Chief Counsel; Carla  
18 Martin, Chief Clerk.

19 Also present: Wade Horn, Assistant Secretary for  
20 Family Support, Department of Health and Human Services;  
21 Douglas Steiger, Professional Staff Member; Kate  
22 Kirchgraber, Professional Staff Member; Alan Cohen,  
23 Budget Advisor, Social Security Administration; Hope  
24 Cooper, Health Policy Advisor.

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM  
2 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The committee will come to order.

5 We are meeting to consider the reauthorization of the  
6 1996 Welfare Reform law known as the Temporary Assistance  
7 for Needy Families program, otherwise known as TANF.

8 The 1996 Welfare Reform law was a landmark. The old  
9 system had failed. We were spending billions, but we had  
10 little to show for it. So we tried something new. We  
11 tried, in the words of the introduction to the 1996 Act,  
12 to "end the dependency of needy parents on government  
13 benefits by promoting job preparation, work, and  
14 marriage."

15 At the time of the 1996 Act, that was very  
16 controversial. But in retrospect, it is clear that, by  
17 and large, the Act has worked well. Hundreds of  
18 thousands of people have left welfare for work. The cash  
19 welfare caseload fell more than 50 percent between 1996  
20 and 2001. This is unprecedented.

21 In my own State of Montana, the trend was similar,  
22 with a caseload decline of more than 50 percent for a  
23 rise in recent months as our economy has generated fewer  
24 jobs.

25 Perhaps even more important, the level of child

1 poverty in this country has fallen. Since 1996, it is  
2 down by 23 percent. So, overall, the record is good, but  
3 despite our success there is still more to be done.

4 President Bush put it well. While we are encouraged  
5 by the initial results of welfare reform, we are not  
6 content. After all, the goal is not simply to "end  
7 welfare as we have known it." Rather, the ultimate goal  
8 should be to reach, as the President put it, post-poverty  
9 America. So, there is much more to be done.

10 For example, we have to focus more attention on the  
11 hardest cases, on families that face complicated and  
12 difficult challenges, children with disabilities, adults  
13 with little or no education or work skills, or with  
14 mental conditions or substance abuse problems.

15 In addition, we have learned that getting a job is  
16 not always a ticket out of poverty. Studies show that  
17 when people leave welfare for work, many find jobs that  
18 pay too little. Many others have working continuously  
19 because of breakdown in child care arrangements.

20 So if we want to make a lasting difference, we need  
21 to provide some further help with child care, health  
22 care, and the other things that will help parents staff  
23 off welfare and in the job market. These are some of the  
24 primary challenges we face as we reauthorize the 1996  
25 Act.

1           With that as background, let me explain where things  
2 stand. The President's proposal is a good start. By and  
3 large, it builds on the framework of the 1996 Act and  
4 makes some important improvements. But it may not do  
5 enough to address all of our remaining problems.

6           So, with that in mind, after the President's proposal  
7 was released I asked our subcommittee chairman, Senator  
8 Breaux, to work with other members of the committee and  
9 try to identify even more common ground. He did just  
10 that. Characteristically, he reached across ideological  
11 boundaries and across the political aisle.

12           He worked especially closely with Senator Hatch,  
13 Senator Snowe, Senator Rockefeller, Senator Jeffords, and  
14 Senator Lincoln. Together, they built on the President's  
15 proposal and developed a framework for a solid,  
16 bipartisan bill.

17           It improves on the President's proposal. It  
18 identifies further common ground. It has broad support  
19 across party lines and it serves as a basis for the  
20 Chairman's mark that I am proposing to the committee  
21 today.

22           Specifically, here is what the Chairman's mark would  
23 do. First of all, we strengthen and redefine the work  
24 requirements. Drawing on the President's proposal, we  
25 increased the required work participation rates from 50

1 percent to 70 percent by 2007.

2 We increased the base work requirement from 20 to 24  
3 hours per week. We require States to implement  
4 "universal engagement" procedures to ensure every welfare  
5 recipient has a plan for leaving welfare for self-  
6 sufficiency and is following through on that plan.

7 I particularly appreciate the help of Senator Hatch  
8 on this issue. He worked with the President's proposal  
9 and refined it to reflect Utah's successful program, and  
10 in that way he made a good proposal even better.

11 We replaced the caseload reduction credit with an  
12 employment credit which rewards States when they move  
13 welfare recipients to work, not simply when they cut  
14 families off from aid. Senator Lincoln took the lead  
15 here. She developed a very good proposal, and we  
16 compliment her for that.

17 There is another important part of the bill. We do  
18 not just focus on requiring work, we also focus on  
19 supporting work by providing people more of the resources  
20 they may need in order to get a good job and keep it.

21 We increased child care funding by \$5.5 billion over  
22 the next five years. That is about \$2.5 billion above  
23 the cost of meeting the increased costs generated by the  
24 bill.

25 All told; it means that we can help States provide

1 child care coverage to an additional 100,000 kids each  
2 year. No, that is not as much additional child care as  
3 many would like to see, but it is a substantial increase.

4 We do some other things to support work. We simplify  
5 the rules for distributing child support collections in  
6 favor of custodial parents. This is very important. It  
7 puts more child support money in the hands of parents who  
8 need it. I thank Senator Snowe for her long effort to  
9 help make this improvement. She is a tireless advocate,  
10 and we appreciate her contribution.

11 We allow recipients to participate in up to two years  
12 of vocational training, including community college  
13 programs which lead to an employment-related certificate.  
14 Under the leadership of Senator Breaux, we continue  
15 transitional Medicaid coverage and simplify its  
16 procedures so that those who leave welfare for work do  
17 not lose health coverage. On top of this, we give States  
18 some additional flexibility and additional resources so  
19 they can continue to expand their creative work.

20 We increased the supplemental grant program and  
21 revised the formula to provide further help to low-income  
22 States. Because of the creative work of Senator  
23 Rockefeller and Senator Bingaman, we create a \$200  
24 million business link partnership grant program.

25 We provide new resources to tribal governments,

1 including the \$75 million Tribal TANF Improvement Fund.  
2 This is particularly important for me. In Montana, about  
3 half of our TANF recipients are Indians and our  
4 reservations continue to struggle economically. It is  
5 tough to go from welfare to work when there simply is not  
6 any work. We need to do better, and this proposal is a  
7 start.

8 We provide \$200 million a year in demonstration  
9 grants to test strategies to promote healthy marriages.  
10 Now, as many members know, I am a bit skeptical about the  
11 need for the government to get involved in this area.  
12 But this is a priority for the President and for many  
13 members, and the programs are voluntary, so in the spirit  
14 of compromise, I am prepared to give it a try.

15 With respect to State flexibility, we allow States to  
16 choose to have recipients participate in rehabilitative  
17 services such as substance abuse treatment and basic  
18 literacy for up to 6 months out of 24 months, provided  
19 the last 3 months incorporate job readiness activities.

20 We allow States with programs operating under welfare  
21 waivers expiring on or after October 1, 2002 to continue  
22 the waivers through September 30, 2007, provided they  
23 comply with the new universal engagement requirement.  
24 Those are key provisions.

25 All told, this is a sweeping bill which continues the

1 journey we started in 1996 when we "ended welfare as we  
2 knew it." It is not perfect, but I believe it reflects a  
3 reasonable middle ground among many competing  
4 perspectives and, on the whole, strikes a balance. We  
5 raised the bar. We keep costs moderate. We maintain  
6 State flexibility.

7 Again, I thank Senator Breaux and the many members  
8 who have worked so hard to put this together. Before I  
9 close, I would like to pay particular thanks to my good  
10 friend, Senator Grassley. We have talked a lot about  
11 these issues. A lot.

12 He has worked hard to find the middle ground as well.  
13 He is someone who wants to get things done in the  
14 interests of the committee and the country, and his work  
15 on this bill is another example of that.

16 I will now turn to my friend, Senator Grassley.

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.  
2 SENATOR FROM IOWA

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4 Senator Grassley. I appreciate your comments and  
5 compliments very much, and obviously I think they are  
6 deserved. [Laughter].

7 The Chairman. I would not have said them!

8 Senator Grassley. Let me say a couple of things  
9 ahead of time before I give my comments. When we talk  
10 about poverty--and welfare reform is only part of the  
11 effort to combat poverty, I know--I want my colleagues to  
12 keep in mind some things that are pretty incidental to  
13 every case of poverty, at least they show up as a common  
14 in all of the indices. One is a lack of education, the  
15 other one is single parenthood.

16 This is another way of saying, if you are apt to be  
17 married, you are less apt to be in poverty. Second, if  
18 you have a higher level of education, you are less apt to  
19 be in poverty.

20 This program that we have before us, although it  
21 deals just with people on welfare, has components that  
22 the President has put forth to have demonstration  
23 projects to promote the institution of marriage, number  
24 one, and number two, the President's theory of education,  
25 particularly education that is very closely related to

1 the workplace.

2 So it seems to me that the President is trying to  
3 handle in his proposals, as he presents them to Congress,  
4 attacking the two basic ingredients of poverty in  
5 America, not poverty just related to welfare, but  
6 poverty, generally.

7 Then, also, I think that we tend to think on another  
8 point. We tend to think that people who are in poverty  
9 are generally in poverty for a lifetime, or that is  
10 somewhat the impressions that are left.

11 If you look at the quintile of income of Americans  
12 over a long period of time as they are divided into the  
13 20 percent lowest and the 20 percent highest income and  
14 the three categories in between, you will find as you  
15 study people that as they move up the economic ladder,  
16 after a period of 10 years, only 10 percent of the people  
17 that were in poverty 10 years before in that lowest  
18 quintile are still in the lowest quintile.

19 There has been a great upward mobility of the  
20 American worker up the economic ladder, with the largest  
21 share of them getting to the middle quintile, and still a  
22 very significant percentage in the fourth quintile.

23 Now, only 10 percent then are in that lowest quintile  
24 over a long period of time. There is great mobility  
25 upward. Then we tend to think also that people that are

1 very wealthy and very rich are always in that top 20  
2 percent, that top quintile of income.

3 Well, quite frankly, there is a great movement down  
4 the ladder from the people that are in the top over a  
5 period of 10 years as well, which shows greater movement  
6 up the ladder in percentage of people than we sometimes  
7 think.

8 So the point being, as we talk about people who are  
9 in poverty, as we talk about people that are on welfare,  
10 I want to think that we are giving people an opportunity  
11 in that lower quintile, a step up the ladder, and there  
12 is great upward mobility in our system of economics in  
13 this country, that the poor are not always poor, that  
14 there is opportunity. I see the Welfare to Work program  
15 as one tool towards this opportunity to move up.

16 Now, in preparing for today's mark-up, Senator Baucus  
17 and I have met regularly and worked hard to come up with  
18 a joint piece of legislation for the committee to  
19 consider. I think it is fair to say that our discussions  
20 went relatively well, but they did not lead me, or us, to  
21 a joint mark.

22 There are many aspects of the Chairman's mark that I  
23 support, however, there are some that I do not. I remain  
24 open, of course, to deliberating amendments as this bill  
25 proceeds through the U.S. Senate.

1 I would comment, upon preparation for today's mark,  
2 in March the Finance Committee began holding hearings on  
3 welfare reform law that was enacted in 1996. That reform  
4 law ended 60 years of entitlement program and ended  
5 welfare as we knew it.

6 The committee received testimony from many key  
7 leaders of the 1996 reform efforts, including Secretary  
8 Thompson, Governors Engler and Dean, as well as other  
9 expert witnesses.

10 The hearings confirmed much of what we have heard  
11 anecdotally since 1996. States have excelled in  
12 transferring welfare into work by creating modern and  
13 dynamic State work programs.

14 Today, no two programs look or act alike among the 50  
15 States, except in their pursuit of transforming people  
16 from welfare to work. The most obvious result of the  
17 Reform Act is that millions of adults are employed and  
18 are experiencing the dignity of holding a job.

19 The quality of life for these families has improved  
20 greatly. Iowans leaving welfare say that work not only  
21 yields financial gains, but it has also helped to improve  
22 self-esteem, independence, and sense of responsibility.

23 Iowans who leave welfare also report that they are  
24 better parents while employed, and that family generally  
25 gets along better when the parents are employed.

1           The transformation of welfare to work has highlighted  
2           the fact that high-quality child care is among the  
3           greatest challenges facing these working parents. The  
4           committee dedicated an entire hearing to that topic.

5           I have heard a great deal from my own constituents on  
6           the topic of child care. The high demand for highly-  
7           qualified, dependable, and available child care is a  
8           pressing issue in my State.

9           Iowa ranks second in the country for the highest  
10          number of two-parent working households. This high rate  
11          of two-parent working households demonstrates my State's  
12          strong work ethic and is something that Iowans are proud  
13          of.

14          But, at the same time, these rising work rates have  
15          contributed to the dramatic rise in the demand for child  
16          care services. Growing demands for high-quality child  
17          care present challenges to policymakers, and I am  
18          confident that we can find solutions.

19          The objective today is to begin the legislative  
20          process of reauthorization. Our goal is to build upon  
21          the 1996 success. The way I see it, the goal is  
22          reauthorizing welfare to incorporate improvements into a  
23          program that is largely succeeding in its mission.

24          In other words, we should work at perfecting our  
25          national reform effort. We should be careful to avoid

1 steps that may unintentionally undo any of the  
2 fundamental components of the 1996 Act.

3 In my view, the collaboration between the States and  
4 the Congress in 1996 was integral to the successful  
5 reform process and we should continue this effective  
6 partnership in this next phase of reform. States have  
7 instructed us to maintain flexibility and provide ample  
8 resources. I hope the committee delivers.

9 For further guidance, I look to the principles set  
10 forth by the President and Secretary Thompson. For one,  
11 we should continue to cultivate a strong work ethic in  
12 our welfare system.

13 We should further encourage State innovation in  
14 meeting welfare reform goals through continued State  
15 flexibility, and we should improve policies around  
16 strengthening families and providing opportunities for  
17 work.

18 In particular, the President has taken a bold and  
19 brave step in choosing to showcase the value of marriage  
20 as it relates to families' economic stability. Let me  
21 say, in regard to skepticism about whether Congress ought  
22 to get involved in the institution of marriage.

23 Remember, just from my own State, 70 percent of the  
24 child abuse is from live-in boyfriends. Now, if that is  
25 not a problem we have got to do something about, and if

1 marriage can do something about it, we have got to do it.

2 The other aspect is when there is poverty, the  
3 feminization of poverty. When you have a divorce, the  
4 female income goes down 70 percent, the male income goes  
5 up 30 percent. If you want to eliminate poverty,  
6 marriage has something to do with eliminating poverty and  
7 we cannot be skeptical about that whatsoever.

8 We should not shy away from supporting public  
9 policies that help low-income families stay intact. We  
10 know that financial stress and other challenges of family  
11 life present threats to family stability. The  
12 President's Healthy Marriage demonstration proposal is a  
13 good proposal and I support it wholeheartedly.

14 I also support the proposals to improve child support  
15 policies that deliver more child support payments to  
16 families and encourage fathers to meet financial  
17 obligations.

18 So, Mr. Chairman, I very much want to complete the  
19 reauthorization of this program this year, though I know  
20 my long speech may not show that. I will continue to  
21 work with you and your colleagues to improve what has  
22 been one of our most successful reform programs.

23 The Chairman. Thank you very much, Senator.

24 We have a lot of Senators here. I hope they are not  
25 too eager to speak. But, knowing Senators, they probably

1 have some eagerness.

2 I would encourage us all to keep our statements very  
3 short. There will also be a walk-through by the staff on  
4 the provisions in the bill. You know how difficult it  
5 often is to get a quorum, so the less we speak, the more  
6 quickly we can work. I do not want to discourage  
7 Senators. I do not. But I want to recognize Senators  
8 who feel they have a fairly compelling urge to speak.

9 Senator Lincoln. Mr. Chairman, can you simply make  
10 a unanimous consent that all of the lengthy comments we  
11 have would be included in the record?

12 The Chairman. Absolutely. With joy. They are all  
13 included in the record.

14 Senator Gramm?

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1 OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM  
2 TEXAS

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4 Senator Gramm. Well, Mr. Chairman, let me first say  
5 that when we passed the Welfare Reform bill--

6 The Chairman. We had a little agreement here.

7 Senator Gramm. Say again?

8 The Chairman. Go ahead. Go ahead.

9 Senator Gramm. When we passed the Welfare Reform  
10 bill in 1996, I was confident that it was going to have a  
11 substantial impact. But I would have to say that in my  
12 fondest dream, I never dreamed it would have the profound  
13 impact that it had.

14 In the 24 years that I have served in Congress, I  
15 worked on a lot of issues that I thought were important,  
16 many that I thought were not important. But nothing has  
17 had a more profound impact on America than the Welfare  
18 Reform Act of 1996. It is living proof that incentives  
19 work.

20 It seems to me that it proved beyond a shadow of a  
21 doubt that when you provide incentives for people to take  
22 jobs, that it has an effect. Now, I think you have got  
23 to take into account, and I am perfectly willing to do  
24 it, that we had a strong economy, that a lot of things  
25 worked right.

1           But the point I want to make, and I think it is  
2 beyond being debatable, is that the Welfare Reform bill  
3 of 1996 was a profound success.

4           Now, you would think, given that success, that we  
5 would be here today dramatically moving forward and  
6 expanding the ideas that were contained in the 1996 bill.  
7 I am disappointed to say that it is my conclusion that  
8 that is not the case.

9           In fact, as I look at this bill when you go beyond  
10 the section headings and get into the details of the  
11 bill, we are actually retreating from the 1996 bill in  
12 many ways.

13           I would have to say that I am disappointed. I had  
14 put together 15 amendments that I was going to offer. I  
15 concluded that we were going to debate all of this on the  
16 floor. There is no sense using the committee's time, so  
17 I am not going to offer any amendments today.

18           But I would say that I believe that this bill is a  
19 far cry from the President's proposal, a far cry from  
20 what has been done in the House. I think, in many  
21 important ways, it is a retreat from current law. I  
22 think it flies in the face of our experience.

23           I would just like to conclude by mentioning one  
24 issue. Everybody understands that in this work  
25 requirement, we have got many avenues whereby States have

1 flexibility.

2 This work requirement is more of a requirement in  
3 name than it is in reality. The President asked us to  
4 move to a 40-hour work week. Now, I would just like to  
5 take note that that is not an unknown amount of work.  
6 People have written songs about it.

7 All over America, working families and low-income  
8 families work 40 hours a week, 50 hours a week, 60 hours  
9 a week. We have over seven million people that hold down  
10 two or more full-time jobs.

11 So I just do not understand why this proposal is so  
12 timid. It seems to me that, in reality, we are not  
13 moving the ball forward. We are not responding to the  
14 most successful reform in America in the last half  
15 century. We are basically retrenching from it. I just  
16 think that is a mistake.

17 Now, obviously that view is not the majority view on  
18 this committee. But rather than trying to go through all  
19 these issues today, I just want to wait until we get to  
20 the floor. But I did want to go on record as saying that  
21 I do not think that our response here reflects the  
22 success of the 1996 bill. I think, in too many ways,  
23 this is a step backwards.

24 Thank you, Mr. Chairman.

25 The Chairman. Thank you, Senator.

1           Let us now walk through the bill. Mr. Steiger, why  
2 do you not give a brief description of the bill?

3           Mr. Steiger. Mr. Chairman and members of the  
4 committee, a brief walk-through in the interest of time,  
5 with more time for questions, if members want to ask  
6 them.

7           This is the Work Opportunity and Responsibility for  
8 Kids Act. It is a substitute for the House-passed bill.  
9 Title 1 is "Funding." This extends the base TANF grants  
10 at \$16.5 billion a year at their current funding level.

11           The mark provides additional funding for the TANF  
12 supplemental grants which go to low grant allocation  
13 States. The current TANF supplemental is \$319 million  
14 and goes to 17 States. This would be \$441 million per  
15 year and go to 24 States. All States currently receiving  
16 a TANF supplemental grant will get at least the same  
17 amount of money.

18           The mark continues the contingency fund in the TANF  
19 program which allows States suffering from economic  
20 distress and having rising caseloads to get some  
21 additional TANF funding, and makes a number of  
22 improvements to the contingency fund.

23           The mark, as the Chairman said, provides an  
24 additional \$5.5 billion in mandatory funding over the  
25 next five years in the Child Care and Development Block

1 Grant.

2 The mark provides a State option for States to use  
3 TANF funding to assist legal immigrants who have come to  
4 the United States in the last five years, but it is a  
5 State option to do so.

6 The mark also includes several simplifications and  
7 clarifications around the use of TANF funds and the  
8 definitions of assistance in TANF law.

9 Title 2, is the title about work. It includes a  
10 universal engagement provision, which requires every  
11 State to have a plan for adult recipients. The plan  
12 would have several required components and would, in  
13 essence, be a road map for that recipient to achieve  
14 self-sufficiency.

15 The work participation rates are increased by 5  
16 percent a year, beginning in 2004, reaching 70 percent in  
17 2007.

18 The caseload reduction credit under current law is  
19 eliminated and replaced with an employment credit which  
20 provides States credit for those who leave welfare and  
21 get jobs. This credit is capped. In 2007, States can  
22 only achieve 20 percent under this employment credit.

23 The work hours. The base priority work hours are  
24 increased from 20 to 24 per week. The total requirement  
25 is maintained at 30 hours per week. The current law

1 provision allowing mothers with children under six to  
2 work 20 hours and meet the work requirements is  
3 continued.

4 The mark expands the list of allowable priority  
5 activities to include rehabilitative services on a time-  
6 limited basis, as the Chairman discussed. It also  
7 increases vocational education allowable from one year to  
8 two years.

9 In Title 3, "Family Promotion and Support," the mark  
10 includes \$200 million a year for healthy marriage  
11 promotion grants, as the Chairman said.

12 There are eight specific allowable activities. Some  
13 examples include public advertising campaigns on the  
14 value of marriage and the skills needed to increase  
15 marital stability and health, as well as voluntary  
16 marriage education programs and marriage skills programs  
17 for non-married pregnant women and expectant fathers.

18 The grant continues the current \$50 million a year  
19 abstinence-only teen pregnancy prevention program as it  
20 is under current law.

21 The mark also includes two small Responsible  
22 Fatherhood programs to help low-income non-custodial  
23 parents with training to meet their child support  
24 obligations.

25 Title 4, is "Health Care Coverage." The mark extends

1 the current transitional Medicaid coverage provision,  
2 with some simplifications.

3 Title 5, is "Child Support and Child Welfare." The  
4 mark simplifies the rules for child support collection  
5 and distribution and provides States with incentives to  
6 provide those collections to families instead of keeping  
7 them.

8 The mark also includes some measures to increase  
9 child support collections in general, such as mandating a  
10 review and adjustment of child support orders every three  
11 years for TANF families.

12 Title 6, is "Tribal Issues." As the Chairman  
13 mentioned, there is a Tribal TANF Improvement Fund  
14 created of \$75 million over the next five years to help  
15 tribes run their own welfare programs.

16 The mark also permits tribes to get direct  
17 reimbursement for any foster care programs for the first  
18 time. The mark makes a number of changes to data  
19 reporting and TANF State plan requirements. It also  
20 provides funding to assess child well-being on a State  
21 basis, so we would have better State statistics about how  
22 children are faring.

23 It also continues TANF waivers if they would expire  
24 on or after October 1 of this year, provided that States  
25 with waivers comply with the universal engagement

1 requirements. It also contains provisions prohibiting  
2 the displacement of municipal workers or county workers  
3 when participants are in community service programs.

4 This morning, we proposed a modification to the mark.  
5 These were done in concurrence with Senator Grassley.  
6 These include clarification on prohibiting supplantation  
7 of child care, which was Senator Bingaman's amendment  
8 number six.

9 It also includes a modification to require that  
10 States review these individual responsibility plans when  
11 they are sanctioning welfare recipients. That was Mr.  
12 Kerry's amendment number one.

13 It also includes an improvement of interstate child  
14 support collection. That was Rockefeller amendment  
15 number five. And a ban on States implementing more  
16 strict eligibility requirements for two-parent families.  
17 That was Rockefeller amendment number four.

18 Mr. Chairman?

19 The Chairman. Thank you, Mr. Steiger.

20 The mark, as modified, is now open for amendment. I  
21 might say that the amendment order I would like to  
22 proceed in is: 1) the Graham amendment dealing with  
23 immigrants; 2) Nickles #1, the Republican substitute; 3)  
24 Bingaman #7 with respect to child care; 4) Snowe #1,  
25 Parents as Scholars; 5) Rockefeller #2, which is SSBG; 6)



1 Murkowski #1, Alaskan Natives; 7) Conrad #1, Caregivers  
2 of Disabled; 8) Kyl #1, Illegal Immigrants; 9) Bingaman  
3 #8, Illegal Immigrants; 10) Bingaman #7, Pregnant Women;  
4 11) my amendment number two. I have two amendments.  
5 This would be not number one, but number two on dealing  
6 with abstinence. So that would be my suggestion on the  
7 order of amendments.

8 It is also my intent that we run through the  
9 amendments quickly, that is, vote on the final bill after  
10 amendments are disposed of, not vote the bill out and  
11 then do amendments later. I would rather do amendments,  
12 first.

13 I think that is a much better procedure. We can do  
14 that if we are expeditious and do not get into  
15 unnecessarily lengthy debates on amendments, so we can  
16 move expeditiously.

17 But, as I said, the modified mark is now open for  
18 amendment. The amendment first on my list is the Graham  
19 amendment.

20 Senator Graham. Thank you, Mr. Chairman. I would  
21 like to call up amendment number four.

22 Mr. Chairman, this amendment would restore the  
23 eligibility should States elect to accept the  
24 authorization that this will provide to provide Medicaid  
25 funding to pregnant women and children of legal

1 immigrants who are in the United States.

2 Before 1996, immigrants who were legally admitted  
3 into the United States could participate in public  
4 programs such as Medicaid on the same terms as citizens.  
5 The 1996 Welfare Reform law ended access to these  
6 programs by legal immigrants who arrived after August 22,  
7 1996.

8 Although denied access to public programs, these  
9 individuals have continued to play by the rules and  
10 contribute to the strength of America by working hard and  
11 paying their taxes.

12 Children born to pregnant women in this country will  
13 be U.S. citizens, and most of the children who emigrate  
14 to this country legally also become U.S. citizens.

15 However, 39 percent of immigrant children in low-  
16 income immigrant families are without health care. That  
17 is almost double the rate for citizens' children in low-  
18 income citizens' families.

19 It is in the Nation's interests for these children  
20 and the pregnant mothers who will bear them to have  
21 access to affordable, effective health care. These legal  
22 immigrants are going to be residents of our country.  
23 Many of them will be, or already are, citizens of this  
24 country, therefore, we have a national interest in their  
25 health.

1           The practical reality is that, by the Federal  
2           Government turning its back on these people, it does not  
3           mean in that in most instances they in fact do not get  
4           health care, but they get a different kind of health  
5           care. They typically get health care offered at the most  
6           expensive and least appropriate facility in a community,  
7           which is the emergency room at the local public hospital.

8           What they do not get is the kind of effective, early  
9           intervention and preventive health care which will have  
10          the greatest chance of leading to a healthy baby being  
11          born and a healthy baby being nurtured.

12          It used to be that this was an issue that only  
13          affected a relatively small number of communities in  
14          America as legal immigrants were concentrated in a few  
15          points of arrival.

16          But, as I have learned in conversations with many of  
17          you--I see the Senator from Arkansas is smiling and  
18          nodding her head because we had one of these  
19          conversations--the reality is that now legal immigrants  
20          are moving throughout the Nation and in communities which  
21          had not had a previous experience.

22          Now there are large numbers of legal immigrants in  
23          those communities as well, and they are being affected by  
24          this shift of responsibility to States and local  
25          communities.

1           This legislation, which will allow States, at their  
2 option, to expand their Medicaid programs to include the  
3 pregnant women and children of legal immigrants, is  
4 supported by a bipartisan group of governors and members  
5 of Congress, including many members of this committee.

6           The Congressional Budget Office projects that  
7 providing States with this option would enable 176,000  
8 people, including 144,000 children, to have access to  
9 health care.

10          Mr. Chairman, this base bill that we have has a  
11 budget number of \$10 billion over five years. We have  
12 been asked to come forward with an offset to pay for the  
13 additional cost of this benefit, which is estimated to  
14 be, in the first 5 years, \$660 million, and over 10  
15 years, \$2.246 billion.

16          We are doing so. First, there is approximately \$1  
17 billion of unutilized revenue from the budget resolution  
18 for this purpose. Second, we are proposing a change in  
19 the Social Security disability claims to SSI.

20          In order to protect against fraud and abuse in the  
21 Social Security disability program, the Social Security  
22 Administration is now require by statute to review at  
23 least 50 percent of the favorable decisions made by State  
24 agencies with regard to eligibility for benefits.

25          There is no similar statutory requirement for SSI in

1 disability cases. My proposal would extend pre-effective  
2 review provisions to initial SSI disability and blindness  
3 allowances involving individuals age 18 and older. The  
4 CBO estimates that this provision will save \$1.343  
5 billion over 10 years at an accelerated phase-in rate of  
6 25 percent in the first year, and 50 percent thereafter.

7 So, my amendment includes that provision which will  
8 provide a total offset of \$2.363 billion against the  
9 estimated 10-year cost of this program of \$2.246 billion.

10 The Chairman. Is there any discussion?

11 Senator Kyl. Mr. Chairman?

12 The Chairman. Senator Kyl?

13 Senator Kyl. Senator Graham, your offset is not an  
14 earlier one that I understood you were looking at,  
15 amendments to Section 419(a). Is that correct? You are  
16 not using that offset relating to cash value life  
17 insurance and so on.

18 Senator Graham. No, we are not offering the life  
19 insurance provision.

20 Senator Kyl. All right. Thank you.

21 Second, am I correct that your amendment redeems the  
22 income of the sponsor for the first three years, but not  
23 thereafter?

24 The Chairman. I want to clarify, hopefully.  
25 Senator, you have four amendments here.

1           Senator Graham.    This is amendment number four that  
2 we are on.

3           The Chairman.    Amendment number four?

4           Senator Graham.    Yes.

5           The Chairman.    It is not a modification of, say,  
6 amendment number one?

7           Senator Graham.    Senator, I have been told that that  
8 three-year deeming relates to the underlying TANF bill,  
9 but not to this amendment as it relates to pregnant women  
10 and children of legal immigrants.

11          Senator Gramm.    Mr. Chairman?

12          The Chairman.    Senator Gramm?

13          Senator Gramm.    I just want to ask the staff a  
14 question. It is my understanding that this amendment  
15 costs \$10 billion. Is that right?

16          Senator Graham.    The estimated 10-year cost is  
17 \$2.246 billion.

18          Senator Gramm.    For how long?

19          Senator Graham.    Ten years. Five years is \$660  
20 million.

21          Senator Gramm.    All right.

22          Now, could you outline where the money is coming from  
23 to pay for it, the offsets? It is not clear to me  
24 exactly.

25          Senator Graham.    Would you like me to answer that?

1 Senator Gramm. Yes..

2 Senator Graham. Two sources. One, \$10 billion was  
3 made available for the underlying TANF program for the  
4 first five years, and \$9 billion is actually utilized in  
5 the Chairman's mark. So, there is \$1 billion left over  
6 of available funds within the construct of the budget for  
7 the purpose of TANF extension. The second, is a change--

8 Senator Gramm. And that is not used by the  
9 underlying bill?

10 Ms. Cooper. Correct. The underlying bill does not  
11 cost the \$10 billion that was estimated for the mark. It  
12 is under its estimated cost.

13 Senator Gramm. So when you take the amount that the  
14 bill cost and you take the budget allowance, it is \$1  
15 billion under the allowance?

16 Ms. Cooper. Right. The allowance provided for by  
17 the budget resolution from the Senate Budget Committee  
18 this year. The \$10 billion allowance.

19 Senator Gramm. Is this last year's budget we are  
20 talking about?

21 Ms. Cooper. No. This is a figure that is  
22 associated with the Senate budget resolution from this  
23 year.

24 Senator Gramm. The only budget that is relevant  
25 here is last year's budget, not next year's budget which

1 was not adopted by the Senate. I do not see how \$1  
2 billion that was made available by a budget that was not  
3 adopted can have any standing in a year where it did not  
4 apply anyway. So, I do not see how in the world \$1  
5 billion could be an offset. Mr. Chairman, I think that  
6 is self-evident.

7 Senator Graham. Senator, your question then would  
8 go to the underlying financing of the entire bill because  
9 it is predicated on the assumption that there is a \$10  
10 billion allotment for Welfare to Work extension, of which  
11 \$9 billion is utilized in the Chairman's mark, leaving \$1  
12 billion that is available for other purposes.

13 Senator Gramm. What I am saying is, we are in  
14 fiscal year 2002, not 2003. There is no budget. We have  
15 not adopted a budget, so the underlying bill cannot use  
16 it, and you cannot use it. I mean, there are some  
17 disadvantages to not offering a budget, and that is one  
18 of them.

19 The Chairman. I would like to have Mr. Cohen  
20 explain the financial underpinnings of where we are.

21 Mr. Cohen. Senator Gramm, last year's budget  
22 resolution, as you know, covered the period that began  
23 with fiscal year 2002 through the 10-year period ending  
24 in fiscal year 2011.

25 Now, clearly, last year everyone anticipated that we



1 would not be marking up a TANF reauthorization bill  
2 because that was intended to occur this year, so no money  
3 was provided in last year's budget resolution.

4 So, we are in a difficult situation at this time.  
5 The best guidance that we have, in our opinion, is that  
6 the committee passed the Senate budget resolution and  
7 that did provide an allocation for TANF reauthorization  
8 of \$10 billion over five years.

9 So that is what we are doing here. You are certainly  
10 correct, Senator, in that there is no official allocation  
11 because of the fact that we do not have a conference  
12 report on the budget resolution completed, but we are  
13 doing the best we can.

14 The best guidance we had is what is in the committee-  
15 passed resolution, especially considering that no one  
16 anticipated marking up the TANF bill last year, so there  
17 was no reason to provide any money last year.

18 Senator Gramm. Well, Mr. Chairman, not to belabor  
19 the obvious, the point is, this \$1 billion does not  
20 exist, and the \$9 billion that you have used does not  
21 exist. CBO is not going to score these funds as being  
22 available. This amendment would be subject to a point of  
23 order, and so would the underlying bill. We are in a  
24 world where every day we read about creative accounting.  
25 It seems to me, this is an example.

1           Senator Graham.   Well, I want you to know that I  
2   have not counted expenses as being investments in  
3   arriving a these numbers.

4           The Chairman.   And I might say to the Senator from  
5   Texas, too, the condition that you described applies to  
6   all legislation.   That is just the situation we are in  
7   because there is not a budget that is agreed to.   I think  
8   it is important to remember what Mr. Cohen mentioned,  
9   namely, last year when we were doing the budget  
10   resolution we did not contemplate TANF being passed last  
11   year.

12           We thought it would be this year, and we all assumed  
13   there would be a budget.   But there is not a budget,  
14   although there is a budget report out of the Budget  
15   Committee, although not adopted by the full Senate.

16           We are in a situation where any revenue measure that  
17   comes up is potentially subject to that same budget point  
18   of order and we are just going to have to do the best we  
19   can, given those circumstances.

20           Senator Breaux?

21           Senator Breaux.   Thank you, Mr. Chairman.   I will be  
22   very brief.   I am in support of the amendment.   We tried  
23   to wrestle with this when we worked in a tripartisan  
24   fashion to see whether we could get an agreement on this  
25   or not.   We decided just to leave it up to the full

1 committee.

2 I think we ought to remember, this is a voluntary  
3 program. We give it to the States if the States think it  
4 is in their needs to implement it and have the financial  
5 means to make their contribution to implement the  
6 program.

7 My State of Louisiana probably does not have enough  
8 State funds to be able to implement this program. It is  
9 voluntary, it is not mandatory. But in States like  
10 Arkansas, and Blanche has been a real leader on this, it  
11 has been very important. I think Senator Snowe has been  
12 very involved in her State with legal immigrants. It is  
13 very important. New York is very important.

14 The governor of Florida, Jeb Bush, is strongly  
15 supportive of this because of the influence of legal  
16 immigrants. Remember, these are legally here in this  
17 country. These people pay taxes. The National Academy  
18 of Science said that in 1997 they paid \$50 billion in  
19 income taxes, payroll taxes, and Social Security taxes  
20 more than they got in benefits. These people paid taxes  
21 to the U.S. Government.

22 I think that merely giving the States the opportunity  
23 if they want, on a voluntary basis, to make them eligible  
24 for children's health care, the CHP program, and Medicaid  
25 if they qualify, is something that this committee should

1 do.

2 The Chairman. Any further discussion?

3 Senator Kerry. Mr. Chairman?

4 The Chairman. Senator Kerry?

5 Senator Kerry. Well, Mr. Chairman, I will also be  
6 brief. But Massachusetts is one of 22 States in the  
7 country that has a health replacement program such as we  
8 are talking about. What we are talking about are people  
9 who predominantly are working, but working at low-wage  
10 jobs. They fall into the category of people who simply  
11 cannot afford health insurance.

12 It makes no health sense, there is no social policy  
13 rationale, and there is absolutely no economic rationale  
14 to leave legal immigrant women, pregnant women and/or  
15 children out of the health care system so that they then  
16 go and get replacement health care that is always too  
17 late, more costly in an emergency room, in an inefficient  
18 way that gets picked up by corporations and everybody's  
19 health insurance anyway.

20 So you wind up saving money by doing this in the end,  
21 because by providing that coverage you have healthier  
22 children and you have people who hopefully are diagnosed  
23 at earlier stages with any problems that may exist. So,  
24 I think this makes a lot of sense and I hope we will  
25 adopt it.

1           The Chairman.    Senator Lincoln?

2           Senator Lincoln.   Mr. Chairman, thank you.

3           I have been referenced several times, and a lot of  
4           that is because we are one of those States that has seen  
5           a disproportionate increase in the Hispanic community  
6           into our State.

7           As the Senator from Texas mentioned earlier, there  
8           are seven million people who hold down two or more jobs.  
9           I would say that a good many of these legal immigrants  
10          who are paying taxes are a good portion of those people  
11          who are holding down two jobs.

12          No doubt, with the disproportionate share of them in  
13          different areas, they are putting an unbelievable burden  
14          on hospitals, emergency rooms, and as we have all known  
15          from day one, a dollar invested in prenatal care pays  
16          three to four dollars road in savings when you see a  
17          healthy child that is delivered and you see a healthy  
18          child that is allowed to develop.

19          So this is an option given to States to make a  
20          choice. Many of our States are in hard economic times.  
21          It may not be an economic opportunity for them at this  
22          point to choose this option, but we should make this  
23          option available to them to be able to deal with the  
24          problems that disproportionately are happening in many of  
25          our States.

1 I think it is a good amendment, and one that we  
2 should pass in giving those States, again, the State  
3 flexibility to deal with the particular problems they may  
4 be having that are different from what other States are  
5 having.

6 Thank you.

7 The Chairman. Thank you.

8 Any further discussion?

9 Senator Kyl. Mr. Chairman?

10 The Chairman. Senator Kyl?

11 Senator Kyl. Mr. Chairman, the reason I asked the  
12 question before--and I appreciate the clarification about  
13 the deeming of the income--is that this is not just a  
14 matter of State concern.

15 First of all, as noted, it is going to cost the  
16 Federal Government \$2.2 billion. So, States exercising  
17 voluntarily an option are going to be borne by all of the  
18 taxpayers of the country. We need to go back to what  
19 federal immigration policy is.

20 The reason this amendment is being offered is because  
21 it is the current law that federal immigration policy  
22 does not encourage people to come here who are  
23 immediately going to become a burden on the federal  
24 taxpayer.

25 That is why federal immigration law says that the

1 sponsor of a legal immigrant is deemed to have committed  
2 to pay the expenses of that individual. We have a five-  
3 year period of time within which that condition is  
4 supposed to pertain.

5 Otherwise, you have the anomalous situation where an  
6 illegal immigrant immediately comes into the country and  
7 becomes a burden, and that has always been contrary to  
8 federal immigration policy.

9 Now, under the underlying bill, it is my  
10 understanding that there is a three-year period of time  
11 in which the sponsor's income is deemed to be that of the  
12 immigrant, and that is an appropriate requirement,  
13 although I still think it should be five years. But it  
14 is three years.

15 This is different. In other words, there is no  
16 deeming with respect to this benefit, so immediately upon  
17 entry into the country a person could fall into the  
18 circumstances which would make them eligible for this  
19 benefit. If a State does exercise the option that has  
20 been indicated, it is going to cost the U.S. Government  
21 \$2.2 billion over time.

22 I think we have to be careful about making policy in  
23 this committee which is going to have an impact on other  
24 issues. I have talked about the issues with respect to  
25 both illegal and legal immigration.

1           It seems to me that we are doing a lot of things in  
2 this Congress and this society that has an incentive for  
3 people to emigrate here who cannot immediately be  
4 contributors to society in a net way. That has always  
5 been our immigration policy that we want people here who  
6 are not a burden on our society when they first come.

7           So, particularly for those areas of the State that  
8 are going to enjoy a great deal of immigration in the  
9 future, I think we need to give this a lot of thought. I  
10 really think, while we are all rushing to try to do  
11 something nice for people that have a problem, we have  
12 got to understand the implications of that with respect  
13 to the immigration problem, with respect to our national  
14 immigration policy. I really do not think we have done  
15 that sufficiently.

16          The Chairman. I think there has been sufficient  
17 discussion on this amendment. I think we know where we  
18 are.

19          All those in favor of the amendment?

20          Senator Murkowski. Mr. Chairman?

21          The Chairman. Senator Murkowski?

22          Senator Murkowski. We have a situation. There are  
23 several areas in coastal Alaska where we have Filipinos  
24 and Asians that have come in. They work piecemeal and,  
25 as a consequence, they are not eligible for health care



1 benefits.

2 But if their children come in, as I understand it,  
3 after 1996, the question of coverage for those children,  
4 is they have to basically wait five years before they can  
5 get covered.

6 Now, under Senator Graham's amendment, this would be  
7 picked up as a federal liability, and the only  
8 alternative we have is for the State to pick up the cost,  
9 which would be 100 percent.

10 Senator Graham. It is one of those ironies of the  
11 federal system. The Federal Government sets the rules by  
12 which legal immigrants can come into this country, but  
13 now the Federal Government is saying that, for five  
14 years, we are not going to even pick up the health care  
15 costs of pregnant women and children who have come in  
16 under our standards. If we think our standards are  
17 wrong, we ought to deal with the standards.

18 Senator Murkowski. Yet the parents are covered.

19 Senator Graham. No.

20 Senator Murkowski. They have been in.

21 Senator Graham. Under the current law, nobody is.

22 Senator Murkowski. If they had one child and were  
23 in before 1996, I think they are covered.

24 Senator Graham. The current law is that, if you  
25 came after August 22, 1996--

1 Senator Murkowski. And had one child.

2 Senator Graham. [Continuing]. You are not eligible  
3 for the first five years for Medicaid.

4 Senator Murkowski. I would ask the staff. It is my  
5 understanding, if you have one child, you are covered.  
6 If you came in before 1996, you are.

7 Ms. Kirchgraber. If you came in before 1996, yes.

8 Senator Murkowski. All right. So after then, there  
9 is nothing.

10 Senator Graham. That is correct. For the first  
11 five years.

12 Senator Murkowski. All right.

13 Senator Graham. And I want to emphasize, we are  
14 talking here about two groups of people, pregnant women  
15 and children. I think that by compassionate standards as  
16 well as hard-nosed standards of what is in our national  
17 best interests, it is to provide health care to those two  
18 components of this population which is otherwise excluded  
19 from Medicaid assistance, or in the case of children,  
20 from the children's health care program.

21 Senator Nickles. Would the Senator yield? Do the  
22 sponsors not sign some certificate or something basically  
23 to assure the government that the government will not be  
24 liable for their expenses?

25 Senator Graham. And I assume if the Federal

1 Government is doing an effective job, some of these  
2 people will not be eligible for Medicaid. You still have  
3 to meet the eligibility requirements in order to be a  
4 Medicaid beneficiary.

5 Senator Gramm. Mr. Chairman, the problem is, you  
6 are not counting the income or wealth of the sponsor in  
7 terms of their eligibility. What this is doing, in  
8 reality, is that it is taking away the responsibility of  
9 the people who are the sponsors who committed to the  
10 taxpayer that during these five years they were going to  
11 be held accountable for these costs.

12 To come in now and let people, based on their income,  
13 get the taxpayer to pick up these costs is to basically  
14 bail out the sponsor, who in many cases is benefitting  
15 from them being here as an employer and has the resources  
16 to do it.

17 I think if this amendment said that the taxpayer had  
18 the right to recoup Medicaid expenditures from the  
19 sponsor, I would vote for it. The problem is, we are  
20 letting the sponsor off the hook. They signed this  
21 agreement that they would pay, and now we are saying, no,  
22 the taxpayer is going to pay. I think that is the  
23 problem.

24 Senator Hatch. Mr. Chairman?

25 The Chairman. I would like to make it clear here

1 now that actually the amendment--

2 Senator Graham. It is amendment number three.

3 The Chairman. Yes. We incorrectly have been  
4 belaboring under amendment number four. It is actually  
5 amendment number three that is being offered.

6 Under four, the offset was present law exemption to  
7 the deduction limit. Under three, the offset is  
8 extending the Social Security pre-effectuation review  
9 provisions at a phase-in rate of 25 percent in the first  
10 year, 50 percent thereafter for such a time as necessary  
11 to offset this expenditure, but not to exceed 10 years.  
12 So, that is the offset that we are considering.

13 Senator Hatch. Mr. Chairman?

14 The Chairman. Senator Hatch?

15 Senator Hatch. Mr. Chairman, I am very sympathetic  
16 to this amendment. I understand the problems that the  
17 border States have. On the other hand, this is really  
18 legislating health care policy into this bill.

19 I would be happy to work with colleagues in trying to  
20 resolve this problem for some of the States that are hit  
21 so hard, especially in this emergency care situation.  
22 But it comes down to, do you want to kill this bill or do  
23 you want to get a welfare bill through?

24 I agree with Senator Gramm that the welfare  
25 legislation we have had on the books has been a singular

1 success and I would like to build on it. I think the  
2 bill does build on it and I think we can do a lot of good  
3 with it, but I am not sure we should do this.

4 Also, as one of the authors of the CHP bill, know  
5 that we did not expect to have entitlement-type  
6 approaches continually play off of that bill. But I  
7 would be happy to work with Senator Graham and others, if  
8 I can. But I know one thing, we start playing with  
9 health care policy on this, this welfare bill is not  
10 going to go through.

11 Senator Graham. Of course, there is significant  
12 health care policy in the underlying bill.

13 Senator Hatch. I understand.

14 The Chairman. I think we are ready to vote on this  
15 amendment.

16 Senator Hatch. Mr. Chairman?

17 Senator Nickles. Mr. Chairman?

18 The Chairman. We are going to have to vote someone.

19 Senator Nickles. Well, I am happy to vote. You  
20 just announced that there was an offset, and I am still  
21 trying to figure out what the offset is.

22 The Chairman. All right. Senator Kerry, first,  
23 sought recognition earlier.

24 Senator Kerry?

25 Senator Kerry. Well, let me just say two things, if

1 I may. First of all, with respect to Senator Hatch's  
2 concern, you have to go back to what we did in 1996 in  
3 the original welfare bill where we repealed this.

4 We are not legislating something that is  
5 inappropriate to the bill. It is completely relevant  
6 because, in fact, we repealed this very right back then  
7 on the welfare bill. So, we are within that context.

8 Senator Hatch. That is true. There was a good  
9 reason why.

10 Senator Kerry. But let me just say this. I support  
11 this. I think we ought to do it because I think it is  
12 good policy. But I cannot say that Senator Kyl and  
13 Senator Graham do not raise--I mean, if you are going to  
14 approach this reasonably and honestly, you have to  
15 acknowledge that there is a legitimate question about our  
16 overall immigration policy.

17 If, in fact, we have a deeming component of our  
18 policy, which we do, which is precisely to avoid the  
19 shifting of burden and to create some kind of incentive  
20 of responsibility in the system that does not wind up  
21 being this sort of open spigot, then that deeming ought  
22 to mean something. I think both are rational.

23 I am not sure that there is not a way, before we get  
24 to final floor action, to work at this. I have always  
25 been troubled by the fact that we set this standard, but

1 we never apply the standard. We never, in fact, try to  
2 find a way to create some responsibility within the  
3 system. And I do not think we can solve it right here  
4 and now. But there is a three-year underlying deeming  
5 element to the bill.

6 We are talking about a five-year right here, so we  
7 have sort of got this two-year period of time that is  
8 outside of it. Maybe there is some way in between now  
9 and final action to think about how you set some kind of  
10 responsibility for effort to recoup, or for holding  
11 people accountable in that two-year interval period.

12 But I do not think you want to leave legal women who  
13 are pregnant and children out of the system because, in  
14 the end, that is more expensive.

15 So, I think we ought to try to proceed on this, but,  
16 in good faith, see if we cannot work out some way. It is  
17 stupid to have this inconsistency in the law where you  
18 have this deeming and it does not mean anything.

19 The Chairman. Are we ready for the vote?

20 Senator Nickles. Mr. Chairman?

21 Senator Murkowski. I am not ready to vote.

22 The Chairman. Well, I am going to call the vote in  
23 about five minutes, so let us get to the point here.

24 Senator Murkowski. All right. Well, let us point  
25 to one or two questions.

1           The Chairman.    All right.

2           Senator Nickles.   Mr. Chairman, I thought we were  
3   debating Senator Graham's first amendment. You said it  
4   is the third amendment?

5           The Chairman.    It is number three.

6           Senator Nickles.   I would just ask staff, there is  
7   an offset. I do not understand the offset.

8           The Chairman.    Mr. Cohen, would you explain the  
9   offset?

10          Mr. Cohen.    Senator, right now under current law for  
11   Social Security disability cases, disability cases in the  
12   Social Security program itself, there is a requirement  
13   that the Social Security Administration take a second  
14   look, if there is a favorable allowance made at the  
15   initial stage, that is, if the initial stage done by the  
16   disability determination services of the States, if they  
17   favorably agree with the application, there is a  
18   requirement that 50 percent of all of those be reviewed  
19   by the quality control team at the Social Security  
20   Administration to see whether or not any error might have  
21   been made. They do find errors and, as a result, some of  
22   the cases are disallowed at that point. That saves money  
23   and protects money in the trust fund.

24          We do not have the same requirement at the current  
25   time for the supplemental security income program, which



1 is not a part of the Social Security program, but which  
2 also serves those who are disabled.

3 This proposal, which was proposed in the President's  
4 budget, would make the requirement for the SSI program  
5 the same as the requirement for the Social Security  
6 disability program so that they would have to review 50  
7 percent of the cases that are favorably provided for  
8 under the initial determination.

9 Senator Nickles. All right.

10 Mr. Cohen. It will save money both in the SSI  
11 program and in Medicaid.

12 Senator Nickles. I appreciate the explanation. I  
13 do not have any objection to the offset.

14 Now, Senator Kerry made a suggestion, as well as  
15 Senator Kyl and Senator Gramm, about, what about holding  
16 the sponsors accountable? Is there a way of doing that?  
17 Is there a way of enforcing the requirements, the  
18 agreements that they signed?

19 Mr. Cohen. I will defer to my colleagues here.

20 Senator Kyl. Mr. Chairman, would the Senator yield  
21 for just a moment while staff is preparing? I can answer  
22 that question partially, and I did want to speak to this  
23 point because it goes to the element of scoring as well.

24 Under the current law, as I understand it, "sponsors  
25 who fail to support sponsored aliens are legally liable

1 to the sponsored aliens and to any government agency that  
2 provides sponsored aliens needs-based assistance.

3 A sponsor's liability ends when the sponsored alien  
4 is no longer subject to deeming, either through  
5 naturalization or meeting a work test."

6 So, as I read the existing law, there is already a  
7 requirement of reimbursement. I wonder whether that  
8 requirement has been factored into the cost of \$2.2  
9 billion. I mean, theoretically the cost should be zero  
10 if there is going to be reimbursement to the government.

11 So I am assuming that an assumption has been made  
12 that there will be no attempt to obtain the  
13 reimbursement, or that it would be inadequate, and I  
14 think we should get an answer to that.

15 Senator Murkowski. Mr. Chairman?

16 The Chairman. Senator Murkowski?

17 Senator Murkowski. I would like clarification for a  
18 case in point. Every State has a little different view  
19 of this and how it would affect some of the folks in  
20 their State.

21 But if a family came over with one child before 1996,  
22 that one child would be covered. But if they came and  
23 brought two or three other children after 1996, my  
24 understanding is those children would have to wait five  
25 years. Is that correct?

1 Ms. Kirchgraber. That is correct.

2 Senator Murkowski. Then, specifically, if that  
3 woman has another child in the United States, is that  
4 child covered immediately or does that child have to  
5 wait?

6 Ms. Kirchgraber. Post-1996, once that child is  
7 born, they would be a citizen child so they would be  
8 eligible.

9 Senator Murkowski. So it is the children that would  
10 come after that would have to wait five years.

11 Ms. Kirchgraber. Right. Children who arrived after  
12 1996 would have to wait five years.

13 Senator Murkowski. And that is included in the  
14 Senator from Florida's amendment. They would then be  
15 covered under the extension of the Medicaid program as  
16 proposed in this amendment.

17 Ms. Kirchgraber. That is correct.

18 Senator Murkowski. And there is no other provision,  
19 other than the State having to pick up the entire cost,  
20 if you were looking for an alternative to pick up  
21 coverage for those children that came in after 1996.

22 Ms. Kirchgraber. Right.

23 Senator Breau. The answer is yes.

24 Senator Murkowski. The answer is yes.

25 The Chairman. All right.

1           Mr. Cohen.    I think that relates to Senator Kyl's  
2 question about whether or not the amendment, as drafted,  
3 has a provision that recoupment from the sponsor as some  
4 form of reimbursement.

5           Senator Murkowski.   Well, let us assume the parents  
6 are the sponsor.

7           Mr. Cohen.    It does not.

8           Senator Murkowski.   Or let us assume that the  
9 employer is a sponsor, but the employer does not have a  
10 health care plan.  What is going to happen to these kids?  
11 They have got no relief.

12          The Chairman.    Senator Breaux?

13          Senator Breaux.    I do not want to belabor.  I think  
14 we ought to go ahead and vote on the thing.  But, in  
15 answer to Frank's question, I think the sponsor is liable  
16 for it whether he has insurance or not.  Either insurance  
17 pays for it or he personally pays for it, and you have to  
18 go after the person who is the sponsor.

19          Senator Murkowski.   And what if the sponsor is a  
20 parent?

21          Senator Breaux.    They are responsible if they have  
22 got the money.

23          Senator Murkowski.   Or the grandparents.

24          Senator Breaux.    Well, if they do not have any  
25 money, that is--

1           The Chairman.    I think we have had enough discussion  
2           on this amendment.   There will be some wrinkles,  
3           obviously, that we can work on before we get to the  
4           floor.

5           This is the last comment.   Senator Nickles?

6           Senator Nickles.    I think Senator Kyl pointed out  
7           that the language in the law is that there should be  
8           reimbursement to the government.

9           I do not think there is anything in Senator Graham's  
10          amendment that would encourage enforcement of the law, or  
11          encourage accountability, or have the sponsors be liable  
12          for that five-year period of time.

13          I would urge that we would modify the amendment or  
14          come up with some acceptable language that would give  
15          some enforceability.   With a \$2 billion price tag on it,  
16          evidently some people think that this is not going to be  
17          collected from the sponsors.

18          The Chairman.    The question is on the amendment.

19          All those in favor, say aye.

20          [A chorus of ayes]

21          The Chairman.    Those opposed, no.

22          [A chorus of nays]

23          The Chairman.    The Clerk will call the roll.

24          The Clerk.    Mr. Rockefeller?

25          Senator Rockefeller.    Aye.

1           The Clerk.    Mr. Daschle?  
2           The Chairman.  Aye, by proxy.  
3           The Clerk.    Mr. Breaux?  
4           Senator Breaux.  Aye.  
5           The Clerk.    Mr. Conrad?  
6           Senator Conrad.  Aye.  
7           The Clerk.    Mr. Graham?  
8           Senator Graham.  Aye.  
9           The Clerk.    Mr. Jeffords?  
10          Senator Jeffords.  Aye.  
11          The Clerk.    Mr. Bingaman?  
12          Senator Bingaman.  Aye.  
13          The Clerk.    Mr. Kerry?  
14          Senator Kerry.  Aye.  
15          The Clerk.    Mr. Torricelli?  
16          The Chairman.  Aye, by proxy.  
17          The Clerk.    Mrs. Lincoln?  
18          Senator Lincoln.  Aye.  
19          The Clerk.    Mr. Grassley?  
20          Senator Grassley.  No.  
21          The Clerk.    Mr. Hatch?  
22          Senator Hatch.  No.  
23          The Clerk.    Mr. Murkowski?  
24          Senator Murkowski.  Aye.  
25          The Clerk.    Mr. Nickles?

1 Senator Nickles. No.

2 The Clerk. Mr. Gramm?

3 Senator Grassley. No, by proxy.

4 The Clerk. Mr. Lott?

5 Senator Lott. No.

6 The Clerk. Mr. Thompson?

7 Senator Grassley. No, by proxy.

8 The Clerk. Ms. Snowe?

9 Senator Snowe. Aye.

10 The Clerk. Mr. Kyl?

11 Senator Kyl. No.

12 The Clerk. Mr. Thomas?

13 Senator Grassley. No, by proxy.

14 The Clerk. Mr. Chairman?

15 The Chairman. No.

16 The Clerk. Mr. Chairman, the tally is 12 ayes, 9

17 nays.

18 The Chairman. 12 ayes, 9 nays. The amendment

19 carries.

20 Senator Nickles. Mr. Chairman?

21 The Chairman. Senator Nickles?

22 Senator Nickles. I would still urge that we try to

23 hold some accountability. We do not have to get that

24 done now, but I do not see any reason why Senator

25 Kerry's, Senator Kyl's and some of our suggestion is to

1 try to have some accountability for sponsors. If they  
2 sign these agreements, we ought to make sure the  
3 government is enforcing it.

4 Senator Breaux. Would the Senator yield for just a  
5 quick point? I do not think his amendment changed any  
6 requirement of the sponsors, does it?

7 Senator Graham. No.

8 Senator Breaux. The requirement is still there.

9 Senator Nickles. But evidently we are not  
10 collecting from them, and we should.

11 Senator Breaux. Oh, it is difficult to do it.

12 Senator Graham. If I could just say, this is a  
13 federal responsibility to enforce this deeming. This is  
14 not a State-by-State obligation. If there is a failure  
15 to enforce people who are inappropriately categorized as  
16 being Medicaid eligible because of their poverty who  
17 should not be if you had properly held the sponsor  
18 accountable, we ought to do a better job. The problem is  
19 with us. But we should not be passing the responsibility  
20 to the States and local communities, which is what we are  
21 doing without this amendment.

22 Senator Lott. Mr. Chairman?

23 The Chairman. Senator Lott?

24 Senator Lott. Just to make a brief statement on the  
25 bill overall. We did just add how much to the overall



1 cost? Is it \$2 billion, approximately, with that  
2 amendment.

3 The Chairman. With an offset.

4 Senator Nickles. How much is the offset?

5 Senator Graham. The offset is, for the five-year  
6 period, \$779 million against an estimated cost of \$660  
7 million.

8 Senator Lott. And this offset is one where there is  
9 a continuing review to decide, in a disputed way, quite  
10 often, whether or not Social Security people on  
11 disability should be on the program or not?

12 Senator Graham. Just as we currently are requiring  
13 Social Security disability claims to be reviewed at the  
14 federal level for consistency and the avoidance of fraud  
15 and abuse, this would require the same standard for SSI  
16 determinations.

17 Senator Nickles. But he asked the question, how  
18 much was the total cost of the amendment.

19 Senator Graham. For five years?

20 Senator Nickles. Yes.

21 Senator Graham. It is \$660 million.

22 Senator Nickles. Oh. I thought it was \$2 billion.

23 Senator Graham. That is the 10-year cost. The 10-  
24 year cost is \$2.246 million.

25 Senator Lott. Well, Mr. Chairman, if we could move

1 on, because we have already had that vote.  
2 Unfortunately, I am very much concerned about the cost  
3 involved here. It looks to me like, as it is written,  
4 now you would say over 10 years it would be about \$17  
5 billion, or \$16 billion.

6 But I think there are what I would call hidden costs  
7 here of about \$7.3 billion more over 10 years from  
8 sunsetting child care and the marriage money, so the real  
9 cost of the bill is somewhere in the range of \$24  
10 billion, I suspect. So, at a minimum, it is \$22.2  
11 billion up toward at least, I think, \$24 billion.

12 Now, the President's proposal is \$15 billion, so this  
13 bill is way over what we started out with when the  
14 President made his request, and way over what I believe  
15 he will sign. So, we are going to have to scale this  
16 back at some point.

17 We are either going to have to do it now, or do it  
18 later, particularly when you look at the fact that this  
19 bill, as has been pointed out, is subject to a 60-vote  
20 point of order. The tragedy of all of that, to me, is  
21 the welfare reform worked. It was a tremendous success,  
22 with the lowest level of African Americans in poverty  
23 ever. It helped in my State and in a lot of other  
24 States.

25 I thought we were going to take the next step by

1 encouraging and having more work requirements, but  
2 training programs without a huge increase in the cost. I  
3 am afraid that we are in the process here of, instead of  
4 moving this ball forward with more welfare reform, we are  
5 retrenching. I think this last amendment is a classic  
6 example of that.

7 But I just wanted to express my concerns. I mean, I  
8 would like to be for welfare reform, but this bill in its  
9 present form, I think, is going the wrong direction and  
10 faces a very difficult path to pass the chief at all.

11 The Chairman. Thank you, Senator. Those are  
12 important remarks.

13 Next on the list, though, is the amendment to be  
14 offered by Senator Nickles.

15 Senator Nickles. I am not going to offer the  
16 amendment today. I may offer it on the floor.

17 The Chairman. All right.

18 Next, Senator Bingaman's number one. I have one and  
19 two, child care.

20 Senator Bingaman. Mr. Chairman, yes. Let me be  
21 sure I know which one we are doing. This is my amendment  
22 number two on child care.

23 Let me, first, just put a little context around this.  
24 I think there are some positive things in this  
25 legislation, but the greatest concern that I have in the

1 legislation, the mark that the Chairman has presented to  
2 us, is the inadequate child care funding, as I see it.

3 Without any change in the work requirements, as I  
4 understand it, CBO estimates that we still need to  
5 increase funding for child care by about \$4.5 billion  
6 just to maintain the current level of services that are  
7 provided with federal funds.

8 When you add in the costs for increased work  
9 requirements, that is approximately \$2.7 billion  
10 additional. So when you add the \$4.5 billion and the  
11 \$2.7 billion, frankly, I do not see how we can maintain  
12 current levels of service, child care services, at the  
13 level that this mark contemplates, the \$5.5 billion.

14 So the amendment that I have here that I am offering  
15 is amendment number two by myself, Senator Kerry, Senator  
16 Torricelli, Senator Lincoln, Senator Jeffords, Senator  
17 Daschle, and it does not do what I had earlier proposed  
18 to do, and that which I had talked about doing as  
19 amendment number was, and that was to go to \$11.25  
20 billion over five years of new money for child care.

21 I think that is the more appropriate level to fund  
22 this at, but the amendment that I am actually talking  
23 about now would add \$1.5 billion, to get us to \$7  
24 billion. I think it is important to do this, for a lot  
25 of reasons.

1           In my State, there are a tremendous number of people  
2 who are eligible to receive child care assistance who are  
3 not receiving it. Nationally, there are 12.9 million  
4 eligible poor children who are not receiving assistance  
5 for child care.

6           We are going to only worsen the situation if we, in  
7 fact, do not do better with the child care number than we  
8 are proposing to do in the mark that has been presented  
9 to the committee this morning.

10          So, for that reason, I think it is essential that we  
11 try to find a higher figure for child care. As I said,  
12 the amendment that I am actually talking about is just  
13 the \$1.5 billion increase over five years to get us up to  
14 \$7 billion. That is still inadequate, but it is better  
15 than what we are presented with.

16          So, I hope very much that we can get support to move  
17 ahead with that amendment. I know my colleagues, some of  
18 the other co-sponsors of this amendment, feel strongly  
19 about this issue as well and wish to say something about  
20 it before we proceed.

21          The Chairman.     Senator Kerry?

22          Senator Kerry.     Well, Mr. Chairman, I have been  
23 delighted to work with Senator Bingaman, Senator  
24 Jeffords, Senator Torricelli, and others on this issue.

25          I was listening to Senator Lott's comments a moment

1 ago, and I guess Senator Gramm earlier spoke about the  
2 reversal, as they deem it, with respect to welfare  
3 reform.

4 I voted for the Welfare Reform bill back in 1996 and  
5 worked hard to try to move us to a different culture with  
6 respect to welfare reform.

7 But it is really interesting that the governors, who  
8 are the ones who have to implement welfare, are  
9 overwhelmingly supportive of the direction that we are  
10 moving in. I think you really have to take note of that.

11 When Senators sit up here on the dais and condemn a  
12 move away, it has to be measured against the people who  
13 are implementing welfare reform in their States on a  
14 street-by-street, town-by-town basis.

15 No one can underestimate the full impact of the  
16 economy that we had in the 1990s on facilitating that  
17 transition. Senator Graham acknowledged that to some  
18 degree. But we have an expanding economy. We have an  
19 enormously different situation from what we face right  
20 now.

21 In addition to that, everybody who is an expert, who  
22 really spends time working, doing the hard work of  
23 getting somebody who is at the lower end of the economic  
24 ladder in our country to get into work, every one of  
25 those people will tell you that at the earliest stage, we

1 had the easiest cases, the easiest transitional component  
2 of this problem.

3 But now you are getting into those people who have  
4 the greatest difficulties transitioning to work, for any  
5 number of different reasons, the disabilities they may  
6 have, learning disabilities, a whole host of reasons.  
7 Any governor who is working a this in a conscientious way  
8 will tell you, this is the hardest part. These is the  
9 hardest cases to transition.

10 So, I think that we have to be realistic about what  
11 we are doing here. I think the bill, essentially, that  
12 we put together tries to do that.

13 Now, the one most significant missing component of  
14 that is the child care component of that. I would say to  
15 my colleagues on the other side of the aisle who pride  
16 themselves in sort of a conservative approach to  
17 government, that you cannot be talking about building  
18 families, you cannot be talking about family values, you  
19 cannot talk about protecting children and the full  
20 measure of opportunity in our country and not measure  
21 what child care means as a difference to many single  
22 parents, but in many cases traditional families, to be  
23 able to transition to work.

24 We have an early child education center at the edge  
25 of Roxbury in Boston. I went there recently and visited.

1 There are 67 kids in it. They are exclusively kids of  
2 color, and 98 percent of them are the children of single  
3 parents.

4 They are the targets of this welfare reform. For the  
5 67 kids that are in there, they have them from 7:30 or  
6 8:00 in the morning until 5:30, 6:00 in the evening.  
7 They are nurtured, cared for. They learn social skills.  
8 They are getting early child development skills.

9 Those will be the children who are ready to go into  
10 the first grade ready to learn. Increasingly, we heard  
11 from first grade teachers of kids who come to school who  
12 cannot do early numbers, cannot recognize colors, cannot  
13 do shapes and forms.

14 Those kids go into a class, usually in the inner city  
15 or in a rural community with 35 kids, and the teacher has  
16 to struggle to bring the whole class along. So, the  
17 whole class gets dragged down.

18 So, child care is a component of making education  
19 reform a success. It is a component of providing a safe  
20 place for a child to be while the parent goes to work.  
21 For us not to acknowledge the holistic approach to this,  
22 to sort of separate it out and say, oh, we can find \$33  
23 billion for corporations for tax cuts but we cannot  
24 really build families, we cannot really build  
25 communities, we cannot provide safety for children, is



1 absolutely inexcusable and it is incomprehensible. I  
2 think that we ought to have a vote on this.

3 Now, I know we do not have the votes here in this  
4 committee at this point in time. I am not sure what  
5 Senator Bingaman will ultimately decide.

6 But it seems to me that if you are going to make  
7 welfare reform the success Senator Gramm says it is with  
8 the next tier of people who have to be lifted to work,  
9 you have got to provide for child care.

10 The fact is, when you take the child care and  
11 development block grant and you add it to State matching  
12 funds, and you add to that what is in TANF to date, only  
13 one in seven children in this country are going to get  
14 child care.

15 So, you cannot talk about completing this task and  
16 putting in stricter work requirements without also  
17 accompanying the child care that is essential to making  
18 it happen.

19 Mr. Chairman, if we do not have the vote here today,  
20 we have to have this vote on the floor of the U.S. Senate  
21 in order to make this bill complete and to do what we are  
22 setting out to do, otherwise it is self-defeating.

23 The Chairman. Further discussion? Senator Breaux?

24 Senator Breaux. I will just ask a question, if the  
25 author of the amendment is going to seek a vote on it or

1 not. It may decide how much time we spend on it.

2 We have a situation, as I understand it, in the  
3 country that only probably about 15 percent of the  
4 average number of eligible children get any child care  
5 assistance, because there has never been enough money. I  
6 mean, you are eligible for child care if you are at 85  
7 percent of the median income. That is the standard.  
8 That is the federal standard.

9 But there is only enough money to cover about 15  
10 percent of the eligible children. So, I mean, obviously  
11 a huge number, 85 percent of those who are eligible, do  
12 not get child care because there is not enough money.

13 The States can set the eligibility level even lower.  
14 My State has it really at the rock bottom. In Louisiana,  
15 I think it is about 18 percent of the eligible kids that  
16 get child care.

17 That means there is a huge number of unaccounted for  
18 children as far as getting any kind of help for child  
19 care while we are encouraging, generally, a single mother  
20 to work. So we have got a program that does not have  
21 enough money. How do we get more money? I mean, that is  
22 the balance.

23 We have got, what 11 to 10 on this committee, and on  
24 the floor it is 50/49. I mean, Republicans have  
25 generally said they do not like even the \$5.5 billion

1 extra money that we put in it. If you go a nickel more  
2 than that, they are not going to vote for it.

3 The amendment originally I think Senators Bingaman  
4 and Kerry offered was \$11 billion. That still would not  
5 come close to covering every child that is eligible. So,  
6 there is a huge need for more money. The question is,  
7 how do we get it in a Congress that is so divided on what  
8 we ought to do?

9 Senator Bingaman. Would the Senator just yield for  
10 a quick point?

11 Senator Breaux. Sure.

12 Senator Bingaman. The problem is, we all understand  
13 the money difficulty here. But, number one, there is  
14 offset. Number two, we are not even keeping up with  
15 inflation here. You have got \$3 billion in this bill  
16 that does to the new work requirements, so you have got  
17 \$2.5 billion on top of that which is \$1.5 billion short  
18 of just keeping up with inflation.

19 So, we are going backwards. It seems to me, given  
20 the offsets we have, we have the ability to be able to at  
21 least keep up with the gains we have made since 1996 and  
22 not go backwards.

23 Senator Breaux. The problem with that is not so  
24 much a policy question as a political question. If you  
25 added \$7 billion, or whatever we add now with this

1 suggestion, there are going to be people that want to go  
2 to 40 hours.

3 If you go to 40 hours, you will eat up all of that  
4 money just on the TANF payments to families and you will  
5 have zip left for children. That is why you have to have  
6 this balance between the number of hours that are going  
7 to be required for work with the amount of money that we  
8 have available.

9 I mean, I like what the amendment is trying to do.  
10 But in the real world, I cannot support it because,  
11 number one, it is not going to pass and I think it would  
12 encourage the 40 hours, which I do not think is a good  
13 idea because we would not have any money at all for child  
14 care.

15 Senator Hatch. Mr. Chairman?

16 The Chairman. Senator Hatch?

17 Senator Hatch. Mr. Chairman, look, I do not think  
18 there is a person in this body that is more concerned  
19 about child care than I am. I took a lot of lumps for  
20 working so closely with my colleagues. In fact, I am  
21 still feeling the effects of some of those.

22 I would love to do more, but I want a bill. There is  
23 only so much this bill can do and I really believe that  
24 we have got to get real about it or we are not going to  
25 have this welfare bill.

1 I agree with a number of comments here that this bill  
2 has made a real difference in this country. It has  
3 gotten people back to work. It has had the right  
4 incentives. There were a lot of arguments against it at  
5 the time, but you cannot argue against it now. I mean,  
6 it has been successful. Look, we always would like to do  
7 more. I would love to. But I want a bill.

8 I just do not see us getting a bill if we do not wake  
9 up and start--I do not mean to criticize anybody. I have  
10 the same feelings. I admire the sincerity and the effort  
11 of the distinguished Senator from New Mexico.

12 I have the same feelings you do. But, on the other  
13 hand, the President wants 40 hours a week; we have agreed  
14 on 30, and even then with different types of language.  
15 So there are a lot of things that could hurt this bill,  
16 and the worst thing we can do is load it up with a lot of  
17 spending that guarantees its demise. It is like  
18 everything else around here.

19 It is a matter of making choices and doing the best  
20 we can, even though all of us would like to do better in  
21 a number of things. But I would sure encourage my  
22 colleagues to look at this bill, how far it has come and  
23 how hard it has been to get it there, and the process it  
24 is going to be to try and get it through the whole  
25 Congress. We cannot keep doing this. If we do, I think

1 we might as well kiss it goodbye. If we do, I think that  
2 is going to be catastrophic for this country.

3 The Chairman. Senator Conrad?

4 Senator Conrad. Well, Mr. Chairman, I would just  
5 say to my colleagues, we did have a budget that passed  
6 the Budget Committee. It is true that that budget has  
7 not yet reached conclusion, although we had 59 votes on  
8 the floor of the Senate last week for that budget.

9 We are at the limit, as I read it, on this bill. We  
10 simply cannot add expenditures here and not go over what  
11 is in that budget, a budget that got the votes of 59  
12 members of the Senate. So, to me, with the Graham  
13 amendment, we are now at the limit.

14 There are very good arguments for additional child  
15 care. Powerful arguments. I just do not see that we can  
16 add to this bill further. I think we are at the limit in  
17 terms of what is in the budget, a budget that got the  
18 votes of 59 people last week.

19 Now, that budget may never get put in place, but I  
20 think we have got to act as though there is a budget.  
21 Hopefully we will get a budget in place that will place  
22 some constraints on spending, or else the deficit problem  
23 that the country has, which has increased dramatically,  
24 will only get worse. This is a time for very hard  
25 choices, and I think we have now reached the limit on

1 this bill.

2 Senator Nickles. Mr. Chairman?

3 The Chairman. Senator Nickles?

4 Senator Nickles. Mr. Chairman, I am going to agree  
5 with the conclusion of Senator Conrad, but I do not agree  
6 with his statement that he had 59 votes for his budget.  
7 That was a 2-year discretionary figure, not the 5-year  
8 budget, not the 10-year budget.

9 Now, I am happy to work with the chairman of the  
10 Budget Committee to try and get that on the floor when we  
11 get back because I think we need to do it. I just did  
12 not want to do it on the DoD bill.

13 I want to just make a couple of comments. I am  
14 concerned about some people saying--and this is  
15 predictably the world--no matter what we have, no matter  
16 what the bipartisan figure is, there will be amendments  
17 to increase the child care. I am sure that will be the  
18 case on the floor as well.

19 But just a couple of comments. One, child care  
20 spending has gone up well in excess of inflation. And  
21 somebody said we did not keep up to inflation. That is  
22 not accurate. We are spending, now, \$4.8 billion per  
23 year in entitlement and on TANF funding, which is the \$16  
24 billion.

25 We give the States discretion up to 30 percent for

1 child care and the States are only moving 8 percent of  
2 that. Now, keep in mind, their caseload is half of what  
3 it was a few years ago.

4 Their per capita, per family assistance for welfare  
5 families, State and federal, is \$16,000. In 1996, it was  
6 less than \$7,000, so it has more than doubled. So the  
7 States have, per family, about \$16,000. They can use  
8 that for child care for welfare.

9 They can move the TANF money to child care. They are  
10 not doing it. They have the money because their caseload  
11 is half of what it was several years ago. So my point  
12 is, we are trying to say we want to do more and we  
13 understand the problems and the challenges, but the  
14 States are opting to use their TANF monies in other ways.

15 I am glad that we have given the States this  
16 flexibility. Evidently, the States have higher  
17 priorities in some cases. I just wanted to point that  
18 out, and I would hope that we would not pass the  
19 amendment.

20 Senator Lincoln. Mr. Chairman?

21 The Chairman. Senator Lincoln?

22 Senator Lincoln. Thank you.

23 I just, first of all, would like to applaud the  
24 Senator from Utah. He and his staff both have been  
25 wonderful to work with. I certainly recognize, he has,



1 again, plugged tremendously towards the issues that we  
2 are talking about here.

3 But I just have to speak to the reality of the issue,  
4 and I think that it is very important when Senator Gramm  
5 talks about the success of the 1996 welfare reform. I  
6 was one of the negotiators there in 1996 when I was in  
7 the House, and I think we have had some qualified  
8 success.

9 But that does not mean we cannot do better. It does  
10 not mean that we cannot improve. Almost half of those  
11 individuals that are coming off the rolls are not  
12 employed. What we want them to be, is a constructive  
13 part of our community. We want them to be taxpaying  
14 citizens. We want them to be self-sufficient and  
15 independent, and we want it to be sustainable.

16 For the time that I spent during my break shadowing  
17 single welfare moms, if we do not look at the reality of  
18 the need of child care, whether it is a mother like  
19 myself who needs child care when I am working, whether it  
20 is our staff here that works with us day in and day out  
21 who also require child care in order to be here working  
22 to help us, it is absolutely essential that we face the  
23 reality that if you are going to require a single mother  
24 to work, there has got to be child care. In most  
25 instances, it is not just the issue of paying for it, it

1 is also making sure that it is available.

2 As a working mother myself, I do not consider  
3 assisting another working mother with child care as a  
4 loophole or something that we can just say is irrelevant.  
5 It is not irrelevant if we want what we are doing to be  
6 sustainable, and I think we all do.

7 I know, from the welfare mothers I have met with and  
8 I have traveled with, whose homes I have been in, they  
9 want more desperately than anything in this world to get  
10 off of that public assistance. They want to pay for  
11 their own child care. They wish that it was available.  
12 They want more than anything to be able to say to that  
13 child, I have got a job. I am providing for you.

14 Mind you, for these live-in boyfriends that are  
15 causing 70 percent of the abuse, having a marriage occur  
16 is not going to change the abusive nature of that  
17 individual.

18 I just think it is so important that we have to  
19 recognize that there are single mothers out there, they  
20 are carrying a load, and they have got to have some  
21 assistance to be able to be sustainable in this workforce  
22 that we so desperately want to get them into, and they so  
23 desperately want to be a part of.

24 So, I hope that whether it is here or on the floor,  
25 that we will just simply look at the reality, that less

1 than 20 percent of the families in Arkansas who are  
2 eligible for child care are receiving yet. Yet, we are  
3 saying to them, we want you to be in that workforce, we  
4 want to put you out there.

5 I hope that we will all, again, whether it is here or  
6 on the floor, look at this issue for the reality that it  
7 is and that exists in this country, and what we want to  
8 do in improving on what we did in 1996.

9 It was good, and it was a good, solid move that was  
10 progressive. But I hope we will all consider that we can  
11 improve on it in providing for these individuals a  
12 sustainability of independence.

13 Thank you, Mr. Chairman.

14 The Chairman. Thank you, Senator.

15 Any others?

16 Senator Rockefeller. If I could just say one  
17 sentence.

18 The Chairman. Senator Rockefeller?

19 Senator Rockefeller. Senator Lincoln and I were  
20 both on the Conference Committee in 1996. And I had some  
21 remarks prepared, and asked the chairman to speak. The  
22 Senator from Arkansas said everything I could have  
23 possibly wanted to say, but much more eloquently.

24 It is hypocrisy if we do not do this. My State does  
25 not have the money to do this, and is now increasing

1 child care and is now increasing co-payments. It is a  
2 cruel, cruel world and we seem to be willing to accept  
3 that and put families at risk rather easily.

4 Thank you.

5 Senator Snowe. Mr. Chairman?

6 The Chairman. Senator Snowe?

7 Senator Snowe. Thank you.

8 I want to applaud Senator Lincoln's passionate  
9 defense of the entire issue of child care. It has been  
10 much debated over the last few years in terms of the  
11 extent of the unmet need. I do not think that there is  
12 any question about the demand and the need for child  
13 care, both affordable, safe, quality child care.

14 The fact is, it is a hindrance, as Senator Lincoln  
15 has indicated, for women to go into the workplace. The  
16 cost of child care can range anywhere from \$4,000 to  
17 \$10,000 a year. It is the third largest cost behind  
18 housing and food to the average family. It can be the  
19 equivalent of tuition costs of any public university.

20 So, those are the facts. I heard, in terms of the  
21 debate, that there only 20 States have waiting lists, the  
22 other 30 do not. The reason why the other 30 States do  
23 not have waiting lists, is because there is no point.  
24 There is no point. There is no funding to address those  
25 waiting lists. For those 20 States that do have waiting

1 lists, they consist of more than 900,000 names on that  
2 list.

3 In fact, in our State we have capped the list. We do  
4 not even continue with the waiting list because the  
5 demand is so great; knowing that there are insufficient  
6 funds, there is no point to continuing with a waiting  
7 list. So, there is enormous demand. It is an impediment  
8 to transitioning to the workforce.

9 But not just transitioning to the workforce, but  
10 permanently transitioning to the workforce, becoming  
11 self-sufficient and independent. That is what child care  
12 helps to do and accomplish in making welfare reform  
13 successful.

14 So on one hand, in the last five to six years we have  
15 seen incredible successes with the 1996 Act. But on the  
16 other hand, we have to build upon those successes. I  
17 know that many of us would prefer to support additional  
18 funding for child care, even over and above, as Senator  
19 Hatch indicated, in the Chairman's mark.

20 But we also recognize the political and fiscal  
21 realities. I just do not want anybody to think here that  
22 \$5.5 billion is sufficient to meet the need. But I will  
23 tell you that the money that has been provided for the  
24 TANF requirements have been analyzed by the Congressional  
25 Budget Office, and they say that it will be sufficient to

1 address the work participation rates in the Chairman's  
2 mark. Then we provide an additional \$2.5 billion over  
3 and above those requirements.

4 The Chairman. I would like to tell members of the  
5 committee, I am very impressed with the comments of those  
6 who are speaking, particularly on the needs of parents  
7 and working mothers.

8 I think it is important also to remember the comments  
9 of the Senator from Maine, that the additional work costs  
10 because of this bill are accounted for, that is, the \$3  
11 billion for child care. The mark adds another \$2.5  
12 billion on top of that.

13 I still, nevertheless, believe that we should  
14 increase the amount for child care. I think that is an  
15 important matter for this Congress to address. I hope  
16 that members on both sides of the aisle will take a  
17 second look at this issue, not only today, but afterwards  
18 so we can figure out a way to adjust for inflation, as  
19 has been suggested. I think, without this adjustment,  
20 States will fall short of their efforts to move people  
21 off of welfare.

22 Let me say to the Senator from New Mexico that I will  
23 do everything I can to support additional child care  
24 funding on the floor. I will work hard to make that  
25 happen.

1 I also recognize that some members believe that there  
2 is a relationship between the increase in child care and  
3 work, and both issues, I think, will be coming up on the  
4 floor. I do not believe there is necessarily a linkage,  
5 but, nevertheless, that will be debated.

6 But I also think it is important to move this process  
7 forward. If the Senator will withdraw his amendment and  
8 reserve his right to fight another day, we can agree to a  
9 welfare reform bill in this committee shortly. But I  
10 remind the Senator that, on the floor, I will work hard  
11 to help him accomplish his objective.

12 Senator Bingaman. Mr. Chairman, in light of your  
13 comments and the comments of others around the table  
14 here, I will accede to your request and withdraw the  
15 amendment, and plan to offer it when we get to the floor  
16 with an adequate offset.

17 I agree with Senator Conrad that we need to be  
18 fiscally responsible, but we can do that and still add  
19 additional funding for child care. So we will have an  
20 adequate offset, and I do think this will be an important  
21 issue in determining whether we have a bill that really  
22 does move us forward.

23 I think, given the current level that we have in here  
24 for child care, we will see current services cut, child  
25 care services. That is certainly not a result that I

1 want to go home and explain in my State. It is not fair  
2 to the people involved.

3 This connection between the amount of child care  
4 funding and work requirements, I think, is a little  
5 perverse, quite frankly. I guess the theory is that,  
6 instead of having 15 percent of the people who are  
7 eligible for child care receiving it, we would raise that  
8 to 50 percent and we would require people to work 120  
9 hours a week, or something.

10 I mean, there is really no connection between the  
11 two, as I see it. But I will work with the Chairman and  
12 with other members here who have expressed support for  
13 this, and all the other co-sponsors of this amendment to  
14 get it in a form where we can succeed on the floor with  
15 it. So, I withdraw the amendment.

16 The Chairman. Thank you, Senator. The amendment is  
17 withdrawn.

18 Next on the list is the amendment offered by Senator  
19 Snowe, Parents as Scholars.

20 Senator Snowe?

21 Senator Snowe. Thank you, Mr. Chairman.

22 Senator Conrad. Mr. Chairman, might I just inquire  
23 as to the schedule?

24 The Chairman. We are going to proceed as long as we  
25 can. These next amendments should not take much time.



1 Senator Conrad. So the intention is to keep going.

2 The Chairman. Keep going until we finish. I think  
3 we can do that in a reasonable period of time because the  
4 big amendments are already behind us. That is not to say  
5 that the others are not important. [Laughter].

6 Senator Snowe?

7 Senator Snowe. Thank you, Mr. Chairman.

8 I am offering an amendment that was based on  
9 legislation that I had introduced called the Pathways to  
10 Self-Sufficiency Act, which has been co-sponsored by the  
11 Chairman.

12 I am now offering an amendment that is co-sponsored  
13 by Senators Bingaman, Jeffords, and Rockefeller that  
14 essentially creates a program that is based on an  
15 innovative program that Maine successfully implemented  
16 during the course of welfare reform.

17 The amendment gives the States the option to allow  
18 post-secondary education and vocational education to  
19 count towards the individual's work requirements and a  
20 State's work participation rates, and limiting the number  
21 of States' caseloads that can be involved in these  
22 activities to 10 percent.

23 The effect, obviously, of this amendment would be  
24 that those engaged in education activities would remain  
25 eligible for TANF benefits like cash assistance, child

1 care, and transportation subsidies. This assistance is  
2 the type of thing that will allow recipients to  
3 successfully complete their degree with the end goal of  
4 becoming more employable.

5 The inspiration for this legislation, as I said, was  
6 developed in Maine. The State used maintenance of effort  
7 funding to provide for TANF-like assistance to enable  
8 those participating in the program to pursue post-  
9 secondary education. It has been a proven success in our  
10 State and I think that it serves as a foundation for a  
11 national effort.

12 That is why I am introducing this legislation,  
13 because I do think it stands as a model for the type of  
14 program and endeavor that we should be incorporating in  
15 our welfare reauthorization.

16 We all agree that the 1996 Act was a success from  
17 removing the entitlement to welfare to a temporary  
18 program, trying to assist individuals to move towards the  
19 workplace.

20 The emphasis has been on workforce, but, like many of  
21 my colleagues, I do believe that we have to identify  
22 other issues that become barriers for those who are  
23 currently on welfare to move into the workplace.

24 Experience has been demonstrated, as a result of the  
25 program in Maine, that education has played a significant

1 role in breaking the cycle of welfare by giving the  
2 parents the skills necessary to find better-paying jobs.

3 In fact, a report was issued in Maine recently on the  
4 Parents as Scholars program. It was very interesting to  
5 note that more than 90 percent of those who participated  
6 in the programs have permanently been removed from the  
7 welfare rolls.

8 Their median wage of \$11.71 per hour after graduation  
9 was an increase from the median of \$8 per hour prior to  
10 entering college. When you compare it to the \$7.50  
11 median hourly wage of welfare, those who left the welfare  
12 rolls in Maine who have not received a post-secondary  
13 degree, the Parents as Scholars graduates are earning, on  
14 average, \$160 more per week. Their wages have actually  
15 increased by more than 50 percent. That is translating  
16 into more than \$8,000 per year.

17 So, we recognize that education is the pathway  
18 towards independence, financial independence, and self-  
19 sufficiency, not to mention the example that it  
20 establishes for their children. During the last recess,  
21 I had the opportunity to meet with six graduates of  
22 Maine's program.

23 It really was an inspiring session to listen to their  
24 individual and collective stories about how they decided  
25 to pursue post-secondary education, overcoming numerous

1 obstacles, but they recognized that they had an  
2 opportunity. They had an opportunity to become  
3 independent, to earn more money, and to set an example  
4 for their young children.

5 In fact, there was one woman who actually hitchhiked  
6 to classes, lived on a friend's couch, with her child.  
7 But she so desired to better herself and to set an  
8 example for her child, that she decided to overcome all  
9 of these obstacles in order to do what she thought could  
10 create a better way of life.

11 Now she has graduated and she has got a job, as do  
12 all the others that I talked with on that day. I just  
13 think that this sets an excellent, exemplary example of  
14 how we should be pursuing and supporting these types of  
15 efforts on behalf of welfare recipients. They want to do  
16 better.

17 In fact, I think there is no better way of breaking  
18 the cycle of dependency from generation to generation  
19 with this type of program because it is encouraging  
20 education, it is encouraging to do better, it is  
21 encouraging self-sufficiency, it is encouraging removing  
22 people from the welfare rolls permanently. So, I can  
23 tell you, it is an unqualified success in Maine, and I  
24 know the same would be true nationally.

25 Thank you, Mr. Chairman.

1           The Chairman.    Any further discussion?  Senator  
2   Breaux?

3           Senator Breaux.    Mr. Chairman, just a moment to make  
4   a comment, and maybe ask a question.

5           As we know, the work requirements under the  
6   Chairman's mark, up to 10 hours of the 30-hour total  
7   requirement can be education and training.  The education  
8   component is vocational education in the Chairman's mark.  
9   But the vocational education allowance can only, I think,  
10   count for up to two years of the work requirement, for  
11   the full work requirement.

12          Mr. Steiger.    Full-time vocational training can only  
13   count for two years.

14          Senator Breaux.    I am wondering whether the author  
15   of this amendment would allow the State an option to  
16   count college.  We have never counted college before as  
17   part of the work requirement.  This would extend a State  
18   option to do it.  I think it is good.

19          I mean, we should not be telling them they have to go  
20   to vocational education school if they may prefer to go  
21   to college.  But I am wondering if the time requirements  
22   are the same.  Does her amendment make going to college  
23   more generous than going to vocational/technical school?

24          Mr. Steiger.    More generous in terms of what,  
25   Senator?

1           Senator Breaux.   In terms of, is there a time limit  
2 of two years like we have at vocational education?

3           Mr. Steiger.   No.  There is a general cap of no more  
4 than 10 percent of your TANF recipients can be in this  
5 program, I believe.

6           Senator Breaux.   I understand that.  But can they go  
7 to college for four years and have it counted?

8           Mr. Steiger.   Well, as I understand the amendment,  
9 it does not change the general five-year time limit.

10          Senator Breaux.   I know.  But can you go more than  
11 two years?  There is a two-year cap on how long you can  
12 be in vocational education and count for work.  Is there  
13 a cap on the Senator's amendment?

14          Mr. Steiger.   I do not believe so, Senator.

15          Senator Snowe.   No.  No.

16          Senator Breaux.   I think it ought to be the same  
17 type of policy we have for other education.  We should  
18 not say one educational system is better than the other.  
19 We can keep them consistent.

20          Senator Snowe.   Well, to answer the Senator's  
21 question, it is the option of what type of post-secondary  
22 education you choose to pursue under my amendment.  So  
23 the first two years participating in a post-secondary  
24 education institution, whatever it happens to be, whether  
25 it is vocational or a liberal arts college, you would

1 have to include the class time and some work experience  
2 up to the 24 hours. The next two years, if you are in a  
3 four-year program, then would require not only class  
4 time, but 15 hours in additional activities to get up to  
5 the cap.

6 Senator Breaux. Well, you would not have that  
7 option if you were enrolled in a vocational educational  
8 school. I mean, I support the amendment, but I think we  
9 ought to try and eventually work to make how long you can  
10 be in either post-secondary or vocational training  
11 consistently and not make one perhaps more generous than  
12 the other.

13 Senator Graham. Mr. Chairman?

14 The Chairman. Senator Graham?

15 Senator Graham. Mr. Chairman, I also support the  
16 Senator's amendment, and I do it because I think we have  
17 a different objective in 2002 than we did in 1996. In  
18 1996, our goal was welfare to work. I believe our goal  
19 in 2002 should be work to the middle class, that we are  
20 interested not in keeping these people at a skill level  
21 where they will forever be at or slightly above minimum  
22 wage.

23 We would like to see this group of people have the  
24 opportunity to move to the American dream. The pathway  
25 to that dream, historically, has been through education.

1 Most of us around this table have benefitted by that  
2 aspect of the American dream.

3 To do so for these folks, I think, is very  
4 appropriate and would maybe be the defining feature of  
5 our new commitment to the American dream for former  
6 welfare beneficiaries.

7 The Chairman. Senator Bingaman?

8 Senator Bingaman. Mr. Chairman, I strongly support  
9 Senator Snowe's amendment as well. It gives States  
10 additional flexibility. It would be important to my  
11 State, just as it is important to Maine.

12 I introduced a bill to try to address the particular  
13 concerns of my own State, and I appreciate the Senator  
14 from Maine incorporating some of those concerns in her  
15 own amendment. But I do think that this is a very good  
16 amendment and I hope we can pass it.

17 The Chairman. Senator Thomas?

18 Senator Thomas. I agree with the question on the  
19 time. It ought to be equal, it seems to me.

20 Then the other is, we are going to go around here,  
21 and around and around, about not having enough resources  
22 to do the things we want to do. We are going to be  
23 talking about leaving people out at the bottom, at the  
24 same time trying to pick people up, a few people up,  
25 higher. I guess I have a question, at least, in my mind



1 about that.

2 You are going to take part of your money and go  
3 graduate from college, where at the same time you have  
4 got some who cannot even read? I do not know. That is a  
5 decision you have to make, I think. I think it should be  
6 flexible. The universities are available. There are  
7 plenty of opportunities there. But I agree with Senator  
8 Breaux, it ought to be limited.

9 The Chairman. I think it is time to vote on this.

10 Senator Murkowski?

11 Senator Murkowski. Just a question relative to the  
12 timing associated with allowing college time to count.  
13 You would propose that would be, but that is limited to  
14 how long?

15 Senator Snowe. To finishing, up to the five-year  
16 time requirement. But obviously, if it is a four-year  
17 program, upon conclusion.

18 Senator Murkowski. And that would be monitored by  
19 the State?

20 Senator Snowe. That is correct. And it would not  
21 pay for tuition. I should clarify that. This does not.

22 Senator Murkowski. Just to count as work time.

23 Senator Snowe. It counts as work time and they  
24 would be eligible for TANF assistance, like cash  
25 subsidies and child care and transportation, because

1 obviously those are essential in order to accomplish  
2 post-secondary education for these who are mostly single  
3 parents.

4 Senator Murkowski. Yes. But it would count as work  
5 time?

6 Senator Snowe. It would count as work time.

7 The Chairman. I urge members to support this  
8 amendment, frankly. I think it is a good one, for the  
9 reasons mentioned, namely, State option, it encourages  
10 more work, and it is a different way, with more  
11 flexibility, to get more people off of welfare and  
12 actually working, somewhat along the lines that Senator  
13 Graham was saying.

14 The question is on the amendment. All those in favor  
15 say aye.

16 [A chorus of ayes]

17 The Chairman. Those opposed, no.

18 [A chorus of nays]

19 The Chairman. The ayes have it. The amendment is  
20 passed.

21 Now we are on to Senator Rockefeller's number two,  
22 SSBG.

23 Senator Rockefeller. Mr. Chairman, thank you. This  
24 is, as everybody says around here, a modest amendment.  
25 In this case, it happens to be true. It affects only one

1 year. The cost of it is \$252 million. The whole point  
2 of this thing was to give States flexibility. We have  
3 short-changed on child care and it allows States to use  
4 their Social Security block grant and transfer 10 percent  
5 of that to TANF, or TANF into the Social Security block  
6 grant.

7 It means that it can be used for child care, can be  
8 used for a variety of things. I hope that my colleagues  
9 will understand that when we did the CARE Act last week,  
10 we already did this for the years 2003 and 2004.

11 This would simply do it for the year 2005, kind of a  
12 good-faith effort in that respect. It is paid for using  
13 some of the approach that Senator Graham took, which I am  
14 sure will bring some comments from the other side. But I  
15 would simply point out that we rescind the illegitimacy  
16 bonus, which actually the President also does, and that  
17 is \$100 million.

18 If we need more, we can go to Customs user fees which  
19 we have used in the Patient's Bill of Rights, we have  
20 used it in the trade bill, we have used it in the  
21 charitable choice CARE Act.

22 Of course, there have not been any conference  
23 committees appointed on any of that stuff, but I think it  
24 is modest. It gives States the flexibility that they, in  
25 fact, do need, and I hope it would pass.

1 Senator Grassley. Mr. Chairman?

2 The Chairman. Senator Grassley?

3 Senator Grassley. I support the substance of the  
4 amendment, but I have got a question. If Senator Graham  
5 used your offset--

6 Senator Rockefeller. We did not. There was plenty  
7 left over. Senator Graham is just that way. [Laughter].

8 Senator Grassley. All right.

9 The Chairman. The question is on the amendment.  
10 All those in favor, say aye.

11 [A chorus of ayes]

12 The Chairman. Those opposed, no.

13 [No response]

14 The Chairman. The ayes have it. The amendment is  
15 agreed to.

16 Next, is the Murkowski number one, Alaskan Natives.

17 Senator Murkowski. Mr. Chairman, I would file an  
18 amendment to the mark that addresses a tragedy in my  
19 State. We all look upon welfare reform with some degree  
20 of pride, recognizing the success that we have had.  
21 Clearly, the incentives to get off of welfare are what we  
22 are concerned about as we address any revisions in  
23 welfare reform.

24 Now, I do not intend to offer the amendment today,  
25 but I want to run through it very briefly because I filed

1 it for the sole purpose to address, explain--and perhaps  
2 you can help me, or perhaps the staff can--concerning the  
3 consequences of our welfare policy in rural Alaska.

4 What the amendment would have done, would be to  
5 extend the 60-month lifetime limit on welfare assistance  
6 to all Americans currently under tribal welfare,  
7 residents in communities with more than 50 percent  
8 unemployment, have no lifetime limit. That means they  
9 can stay on welfare indefinitely. Unlike all other  
10 beneficiaries, they do not have a lifetime limit.

11 But, as I have stated, it certainly does not benefit  
12 our State to change the current legislation which we are  
13 under and are asking we remain because it is in the  
14 Chairman's mark and I understand it has been accepted by  
15 the Chairman, which I appreciate.

16 The current regulations for Alaska would be  
17 maintained, and that is if 50 percent or above are  
18 unemployed, there would be no limit on time and one could  
19 qualify for welfare. For less than 50 percent  
20 unemployment, then it would be a five-year eligibility to  
21 stay on welfare.

22 The problem we have, Mr. Chairman, is we have some  
23 226 villages and about 170, or thereabouts, qualify for  
24 permanent welfare. So the problem is, is there an  
25 incentive to get off of welfare? Of course, what we are

1 looking for is job opportunities, economic opportunities.  
2 But what we are seeing here is an increased dependence as  
3 you go from one generation to the other.

4 I am looking at list here. It shows, out of 229  
5 villages, we probably have, accurately, some 175 to 180  
6 that are 50 percent or over unemployed. So is there an  
7 incentive to get off unemployment? There is from the  
8 standpoint of pride. These are prideful people. But, by  
9 the same token, we have got six or seven that are at 100  
10 percent unemployed, several at 95 percent.

11 I look at this and I say, well, how is welfare  
12 helping my people in rural Alaska? It is helping them  
13 from the standpoint of providing them with permanent  
14 assistance, but the ability to transfer off welfare when  
15 there is no incentive in the system leaves us in a  
16 terrible dilemma.

17 We have seen this poverty and desperation kind of  
18 become cyclical. It goes from one generation to the  
19 next. I think we owe our rural communities more. But in  
20 areas where you have job opportunities and incentives to  
21 get off, why, clearly that is one of the advantages.

22 But when you do not have those job opportunities, the  
23 only relief, Mr. Chairman, seems to be in the mandate of  
24 performing some worthwhile service for the community and  
25 local services in these villages, but that is under the

1 jurisdiction of the State to mandate that.

2 Now, I understand in the Chairman's mark the proposal  
3 is 30 hours, which I think is reasonable. The  
4 President's proposal was 40. But I am appalled at the  
5 lack of economic development in these villages. There is  
6 a frustration in the villages as well because there is a  
7 recognition that what used to be a dependence as the male  
8 role model for the provider, the hunter, is no longer  
9 there.

10 So, there is that transition going on where the head  
11 of the household, the husband, so to speak, who used to  
12 be the main provider, go out and fished, hunted, trapped,  
13 whatever, with welfare benefits, plus food stamps and  
14 whatever, the incentive is lost. So, it enhances what it  
15 is designed to try and provide as a bridge, and it is a  
16 terrible dilemma.

17 So that is why anything that would increase our  
18 inclusion of more villages is probably the worst possible  
19 thing that would happen. It is a terrible, terrible  
20 dilemma, and I do not think it is limited necessarily to  
21 Alaska, but there are other areas that have indigenous  
22 populations that are facing a similar thing. I think  
23 Senator Conrad is familiar with what I am talking about.

24 So, I am not going to pursue the amendment, but I did  
25 want to share with my colleagues this dilemma. I wonder

1 if Senator Conrad, or any other States that have similar  
2 situations, can enlighten us on what is happening as this  
3 welfare dependence simply continues and multiples.

4 The Chairman. I appreciate, Senator, the amendment  
5 is withdrawn. I would like to work with the Senator to  
6 see if there is some way to deal with the situation that  
7 he has in mind.

8 Senator Conrad? You are next, amendment number one.

9 Senator Conrad. Mr. Chairman, if I could just say  
10 on Senator Murkowski's amendment before I proceed to my  
11 own, that we face much of the same circumstances on  
12 Indian reservations.

13 What the Senator describes is accurate. I am glad he  
14 has withdrawn the amendment at this time. I think we  
15 have really got to focus on job opportunities for these  
16 people. Right now, there is no place to go to work.

17 Mr. Chairman, my amendment would give the States the  
18 option of exempting 10 percent of their caseloads for  
19 full-time caregivers of a family member with a  
20 disability.

21 This actually saves money, according to CBO. It is a  
22 modest amount of money, but probably in the range of \$200  
23 or \$300 million would be saved.

24 States, under this amendment, may exempt no more than  
25 10 percent of their caseload. A recipient is eligible



1 for the exemption only if all of the following apply.

2 Number one, the recipient is the only able-bodied adult  
3 in the case.

4 Number two, the recipient is the primary caregiver  
5 for a child with a physical or mental disability, or a  
6 chronic illness, or another family member with a physical  
7 or mental disability or chronic illness.

8 Three, the demands of care giving do not allow the  
9 caregiver to obtain or retain employment of at least 30  
10 hours per week. Four, the need to provide care giving is  
11 specified in the recipient's individualized  
12 responsibility plan and reviewed at least on an annual  
13 basis.

14 Mr. Chairman, I do not think I need to describe it  
15 any further. I think members are familiar with the  
16 amendment.

17 The Chairman. I agree. I might just add, in my  
18 State of Montana, because it is a rural State, this  
19 amendment is even more needed because there are not as  
20 many quality, sufficiently-trained people close enough to  
21 the home.

22 All those in favor of the amendment, say aye.

23 [A chorus of ayes]

24 The Chairman. Those opposed, no.

25 [No response]

1           The Chairman.    The ayes have it.  The amendment is  
2 agreed to.

3           Next, Senator Kyl.  I understand you are offering Kyl  
4 one.

5           Senator Kyl.    I think that is correct.

6           The Chairman.   All right.  Your only amendment.

7           Senator Kyl.    I think so, yes.

8           The Chairman.   All right.

9           Senator Kyl.    Thank you.

10          Mr. Chairman, let me first describe what this  
11 amendment does, then the rationale for it.  It provides  
12 \$120 million per year to the States, localities,  
13 hospitals, and other federally-defined health care  
14 providers that provide federally required, but  
15 uncompensated for, emergency health treatment to  
16 undocumented aliens.

17          This is the requirement primarily of the Emergency  
18 Medical Treatment and Labor Act, or so-called EMTLA law.  
19 EMTLA passed, I think, in 1993, roughly, and mandated  
20 that when people showed up to the emergency room for  
21 treatment, hospitals had to care for them whether they  
22 could pay or not.

23          The net result over time has been that, in a lot of  
24 States where there are a lot of folks that are not  
25 insured, and that includes a large number of illegal

1 immigrants, for example, the unreimbursed percentage is  
2 now in the 40 percent range.

3 So we have a federal law that is requiring local  
4 hospitals to take people into the emergency room, and up  
5 to 40 percent of the time now they are not getting  
6 compensated for that care.

7 But it is a law that we passed that said they had to  
8 take care of those people. Of course, the obligation to  
9 cover our borders is a federal obligation.

10 What this amendment does, is to say that for those  
11 States that have the highest percentage of illegal  
12 immigrants, there is going to be a modest reimbursement.  
13 Now, this does not even begin to cover their costs.

14 For example, Congress commissioned a study last year  
15 which is about to be released--I have kind of a  
16 preliminary report on it--that just in the four southwest  
17 border States, California, New Mexico, Arizona, and  
18 Texas, the uncompensated care is \$295 million a year.  
19 There are something like 17 States that would be covered  
20 by this, obviously, each of the four States that I  
21 mentioned, as well as others.

22 So you can see that at \$120 million a year, we would  
23 only be covering a fraction of the costs for these  
24 hospitals. But it would at least be a recognition of the  
25 fact that the Federal Government has some responsibility

1 to fund the unfunded mandate that it has imposed.

2 Mr. Chairman, let me describe very briefly some of  
3 the reasons why I think this is a critical thing for us  
4 to do. We like to talk about taking care of people that  
5 work hard and play by the rules. American citizens show  
6 up at the emergency room today and they cannot get the  
7 care that they deserve because of what is happening here.

8 I will not give you the anecdotal evidence, but it is  
9 in my own family. We had Tom Scully, the head of the  
10 previously called HCFA, now CMS, come to Arizona, and  
11 presented him with the data just from my State.

12 You do not want to go to an emergency room in my  
13 State if you have a problem with your hand or your eyes,  
14 and there are other issues as well. And you certainly do  
15 not want to come after dark. If you do come to an  
16 emergency room, you are probably going to be turned away  
17 unless it is on duty at that moment.

18 The three largest hospitals in the central part of  
19 Phoenix take turns, every two hours, staffing their  
20 emergency rooms because there are not enough doctors and  
21 enough nurses, or enough money in the hospitals to pay  
22 the people to show up.

23 A doctor used to wait six months to get on the list  
24 to go to the emergency room in the middle of the night so  
25 he could get patients that would pay him. Now doctors

1 are running away from this, as are the hospitals and the  
2 other health care providers because they do not get paid.  
3 And, after all, you cannot expect people to work for  
4 nothing. So, certain specialties are not covered. In  
5 any event, it is becoming very inconvenient for people  
6 who have to go to the emergency room.

7 It is an unfortunate fact, but a reality, that people  
8 who are very poor, and this especially includes illegal  
9 immigrants who otherwise are very hesitant to go to a  
10 doctor, and do not have one to go to anyway. It is a  
11 fact that their general care comes at the emergency room.  
12 That is just the way it is.

13 They are not turned away. Nobody wants to turn them  
14 away, and the law would not allow it anyway. But the  
15 unfortunate result of that is that American citizens are  
16 bearing the burden of this through less adequate  
17 emergency care.

18 All this amendment does is to begin to pay a very  
19 small fraction of those expenses to the ones who are most  
20 directly affected. It is offset and I can provide the  
21 information on that.

22 The Chairman. Senator Breaux?

23 Senator Breaux. Mr. Chairman, as I look at the  
24 situation, we are in an amendment a while ago that would  
25 provide health care assistance to legal immigrants, and

1 there were some who voted against that.

2 Now we are talking about providing health care for  
3 illegal aliens. It seems to me, we have our priorities  
4 backwards. We were going to provide health care for  
5 legal aliens who are working and paying taxes in this  
6 country, and some voted against that.

7 Now we have an amendment that says we are going to  
8 provide emergency room financial assistance to illegal  
9 aliens. It does not seem very consistent to me. With  
10 health care, people who are paying taxes and who are  
11 legally in this country should have a precedent, a  
12 priority over illegal aliens who are undocumented, who  
13 are not paying taxes because the emergency room has to  
14 treat them.

15 The emergency room has to treat a lot of people that  
16 they do not get compensated for. I think singling out  
17 undocumented workers that is going to help for treating  
18 undocumented workers, but not anybody else, is not good  
19 public policy.

20 Senator Kyl. Mr. Chairman, might I respond to that?  
21 With all due respect to my colleague, it is a  
22 mischaracterization of the amendment. I want to make  
23 sure that my colleagues understand exactly what the  
24 amendment does.

25 Senator Breaux. It says "undocumented aliens."

1           Senator Kyl.    In two respects, the Senator from  
2   Louisiana incorrectly characterized the amendment and I  
3   would like to explain what they are.

4           First of all, the existing law requires that  
5   everybody who shows up at the emergency room be cared  
6   for. It does not distinguish between illegal immigrants,  
7   or American citizens who do not have insurance, or  
8   anybody else. That is already the law. This amendment  
9   does not impose that requirement. That requirement  
10  already exists. Let me just finish, if I could.

11          Senator Breaux.   I did not say that.

12          Senator Kyl.    The Senator from Louisiana said we are  
13  about to impose a requirement of taking care of the  
14  medical needs of illegal immigrants, and that is not  
15  true.

16          Senator Breaux.   No. What I said, was--

17          Senator Kyl.    I accept the Senator's--

18          The Chairman.   One Senator at a time. The Senator  
19  from Arizona has the floor.

20          Senator Kyl.    The law already requires that we treat  
21  these people. We are not adding a new requirement to  
22  treat illegal immigrants. This amendment, second, makes  
23  no distinction between the treatment of illegal  
24  immigrants and others.

25          I used the illegal immigrant example as an

1 illustration of the fact that there is an increasing  
2 demand put on our system for people who have no other  
3 physician to go to. They use it as their general  
4 physician, because they do not go to the doctor like most  
5 other people do.

6 But the illegal immigrants represent somewhere in the  
7 neighborhood of about 25 percent of this cost, so for the  
8 States with the highest amount of illegal immigration, it  
9 is a significant expense.

10 But my amendment does not even reimburse for those  
11 expenses, let alone for all of the expenses. This is  
12 simply the measure that is used for the eligibility for  
13 the reimbursement, but it is not a reimbursement for the  
14 care of illegal immigrants.

15 The Chairman. Senator Bingaman?

16 Senator Bingaman. We have the circumstance in my  
17 State, and this is sort of a perverse circumstance, where  
18 the Immigration Service on the border, south of Demming,  
19 New Mexico there at Palomas, will call the ambulance  
20 service for the local county which operates the ambulance  
21 service or has a contract with them and say, we have  
22 someone here who needs emergency care. Send the  
23 ambulance.

24 They send the ambulance, they take them to the  
25 emergency room of the hospital 40 miles away. They



1 provide the service. Then the Immigration Service says,  
2 we cannot reimburse.

3 The Federal Government cannot participate in the  
4 payment of any of that. So you are putting the health  
5 care providers--in this case the ambulance service as  
6 well as the hospital, in an untenable position where they  
7 are required to provide the service.

8 They are actually being called by the INS to provide  
9 the service, and the Federal Government is saying, it is  
10 your problem as far as paying for it. So I strongly  
11 support the amendment.

12 The Chairman. Senator Lincoln?

13 Senator Lincoln. I would just like to say that we  
14 get a lot of complaints about  
15 They have waivers, and I have a list of those for anybody  
16 who is interested in knowing which ones. Unfortunately,  
17 we did not qualify for any of these dollars. So if we  
18 are looking at how all of our hospitals are in dire  
19 straits, they are.

20 We should be addressing the upper payment limit which  
21 we saw a decrease in which is affecting many of our  
22 hospitals because of a disproportionate share of patients  
23 that are coming into our hospitals.

24 We have got a lot of uninsured, we have got a  
25 disproportionate share of Medicare and Medicaid. All of

1 our hospitals are hurting, and we have all tried to  
2 address that in many ways.

3 I am not sure that this is the way to be addressing  
4 that.

5 Senator Graham. Mr. Chairman, may I ask two  
6 questions? One is on illegal aliens and the second is on  
7 high, undocumented alien apprehension. What is Category  
8 1 and what is Category 2?

9 Senator Kyl. Excuse me. I think the answer is \$40  
10 million.

11 Senator Graham. One is undocumented, the other is  
12 based on defined States as being high undocumented alien  
13 apprehension States. What is the share that those two  
14 categories would get under the formula?

15 Senator Kyl. Mr. Chairman, the high legal immigrant  
16 resident States would be the top 17, however many that  
17 is.

18 Senator Graham. The question is, we have got \$120  
19 million per year going to States. How much of \$120  
20 million would be distributed to the 17 States, how much  
21 would be distributed to the 5 States?

22 Senator Kyl. Mr. Chairman, I believe the answer is  
23 that \$80 million would be distributed to the 17 highest  
24 immigration States and the other 40 would be eligible for  
25 either.

1 Senator Graham. To the apprehension States.

2 Senator Kyl. Yes.

3 Senator Graham. Just one last question. Is there a  
4 formula to determine which are the high undocumented  
5 alien apprehension States or is it just the States that  
6 are just listed as being such?

7 Senator Kyl. Mr. Chairman, it is our belief that it  
8 is based upon the INS statistics of the apprehensions.

9 Senator Graham. Could you provide the INS  
10 statistics?

11 Senator Kyl. Absolutely. The current law provides  
12 reimbursement to 12, and unfortunately I do not have the  
13 other 5 listed here. I do know that it includes the  
14 State of the Senator from New Mexico. But we can do  
15 that, yes.

16 Senator Graham. And the basis for determining these  
17 to be the highest apprehension States?

18 Senator Kyl. Yes. Mr. Chairman, I can assure the  
19 Senator from Florida that his State is number four on the  
20 residents. I know the Senator knew that.

21 The Chairman. Questions on the amendment?

22 [No response]

23 The Chairman. All those in favor say aye.

24 [A chorus of ayes]

25 The Chairman. Those opposed, no.

1 [A chorus of nays]

2 The Chairman. The nays have it. The amendment is  
3 not agreed to. A roll call is requested. The Clerk will  
4 call the roll.

5 The Clerk. Mr. Rockefeller?

6 Senator Rockefeller. No.

7 The Clerk. Mr. Daschle?

8 The Chairman. Yes, by proxy.

9 The Clerk. Mr. Breaux?

10 Senator Breaux. No.

11 The Clerk. Mr. Conrad?

12 Senator Conrad. No.

13 The Clerk. Mr. Graham?

14 Senator Graham. Aye.

15 The Clerk. Mr. Jeffords?

16 Senator Jeffords. Aye.

17 The Clerk. Mr. Bingaman?

18 Senator Bingaman. Aye.

19 The Clerk. Mr. Kerry?

20 The Chairman. Aye, by proxy.

21 The Clerk. Mr. Torricelli?

22 The Chairman. Aye, by proxy.

23 The Clerk. Mrs. Lincoln?

24 Senator Lincoln. No.

25 The Clerk. Mr. Grassley?

1 Senator Grassley. No.  
2 The Clerk. Mr. Hatch?  
3 Senator Hatch. No.  
4 The Clerk. Mr. Murkowski?  
5 Senator Grassley. No, by proxy.  
6 The Clerk. Mr. Nickles?  
7 Senator Grassley. No, by proxy.  
8 The Clerk. Mr. Gramm?  
9 Senator Gramm. Aye.  
10 The Clerk. Mr. Lott?  
11 Senator Grassley. No, by proxy.  
12 The Clerk. Mr. Thompson?  
13 Senator Grassley. No, by proxy.  
14 The Clerk. Ms. Snowe?  
15 Senator Snowe. Aye.  
16 The Clerk. Mr. Kyl?  
17 Senator Kyl. Aye.  
18 The Clerk. Mr. Thomas?  
19 Senator Grassley. No, by proxy.  
20 The Clerk. Mr. Chairman?  
21 The Chairman. No.  
22 The Clerk. Mr. Chairman, the tally is 9 ayes, 12  
23 nays.  
24 The Chairman. The amendment failed.  
25 Next, is Senator Bingaman.

1           Senator Bingaman.    Mr. Chairman, I have an amendment  
2    which, very simply, would allow States that are not  
3    already receiving waivers to go ahead and seek waivers in  
4    the future. I think in the bill that has been presented  
5    to us, there are States that are sort of grandfathered in  
6    in the sense that they have waivers. We have a list of  
7    those for anyone who is interested in knowing which ones.

8           I believe, particularly because of the enormous  
9    disparity in the amount of funds made available under  
10   TANF for different States, we should give States  
11   flexibility. We should allow States that need to seek  
12   waivers to do so, and that is what the amendment will do.  
13   I urge my colleagues to support it.

14          The Chairman.    Is this number seven?

15          Senator Bingaman.   Well, I have not looked to see  
16   what number it is. Number three.

17          The Chairman.    Number three? All right.

18          Senator Bingaman.   This is my number three.

19          The Chairman.    I think it is a good amendment. We  
20   have got to give it a try. I just urge my colleagues to  
21   accept this amendment. The amendment is accepted.

22          Next on the list is another Bingaman amendment.

23          Senator Bingaman.   Yes, Mr. Chairman. I have  
24   another amendment and it would correct what I see is a  
25   technical problem that has caused us great difficulty in

1 the 1996 bill.

2 In that bill, we essentially said that programs that  
3 federal public health agencies can provide that involve  
4 non-screened services cannot be provided by States and  
5 local governments unless they pass a new law that  
6 authorizes them to do so.

7 They cannot provide them to anyone who is not a legal  
8 immigrant. So all this would do, is to say that if a  
9 State or local government made a judgment to go ahead and  
10 provide a service without screening everybody for their  
11 citizenship, they would be able to do that with their own  
12 money, just like the Federal Government, the federal  
13 agencies do it today with their money. So that is all we  
14 would be trying to do with this amendment. I urge  
15 members to support it. It is amendment number eight.

16 The Chairman. Is there any further discussion?

17 [No response]

18 The Chairman. All those in favor, say aye.

19 [A chorus of ayes]

20 The Chairman. Those opposed, no.

21 [A chorus of nays]

22 The Chairman. The Clerk will call the roll.

23 The Clerk. Mr. Rockefeller?

24 Senator Rockefeller. Aye.

25 The Clerk. Mr. Daschle?

1           The Chairman.    Aye, by proxy.  
2  
3           The Clerk.     Mr. Breaux?  
4           Senator Breaux.    Aye.  
5           The Clerk.     Mr. Conrad?  
6           Senator Conrad.   Aye  
7           The Clerk.     Mr. Graham?  
8           Senator Graham.   Aye.  
9           The Clerk.     Mr. Jeffords?  
10          Senator Jeffords.   Aye.  
11          The Clerk.     Mr. Bingaman?  
12          Senator Bingaman.   Aye.  
13          The Clerk.     Mr. Kerry?  
14          The Chairman.   Aye, by proxy.  
15          The Clerk.     Mr. Torricelli?  
16          The Chairman.   Aye, by proxy.  
17          The Clerk.     Mrs. Lincoln?  
18          Senator Lincoln.   Aye.  
19          The Clerk.     Mr. Grassley?  
20          Senator Grassley.   No.  
21          The Clerk.     Mr. Hatch?  
22          Senator Hatch.    No.  
23          The Clerk.     Mr. Murkowski?  
24          Senator Murkowski.   Aye.  
25          The Clerk.     Mr. Nickles?



1 Senator Grassley. No, by proxy.  
2 The Clerk. Mr. Gramm?  
3 Senator Grassley. No, by proxy.  
4 The Clerk. Mr. Lott?  
5 Senator Grassley. No, by proxy.  
6 The Clerk. Mr. Thompson?  
7 Senator Grassley. No, by proxy.  
8 The Clerk. Ms. Snowe?  
9 Senator Snowe. Aye.  
10 The Clerk. Mr. Kyl?  
11 Senator Grassley. Aye, by proxy.  
12 The Clerk. Mr. Thomas?  
13 Senator Grassley. No, by proxy.  
14 The Clerk. Mr. Chairman?  
15 The Chairman. No.  
16 The Clerk. Mr. Chairman, the tally is 13 ayes, 8  
17 nays.  
18 The Chairman. The amendment carries.  
19 We have one more amendment on the list, and that is  
20 my amendment number two. Essentially, the mark currently  
21 contains a \$50 million per year abstinence-only funding  
22 for teen pregnancy prevention. I included this provision  
23 as a gesture to many Senators who very much wanted that  
24 provision.  
25 My amendment would add an additional \$50 million per

1 year for abstinence first or abstinence plus programs for  
2 the same period of time as basically a second  
3 alternative. Any discussion?

4 Senator Grassley. Mr. Chairman, I would like to  
5 speak against your amendment. It seems to me that the  
6 provision that is in the bill is very important to the  
7 President of the United States, it is very important to  
8 me.

9 The \$50 million included in the mark is the only fund  
10 available for abstinence-only education. There are 25  
11 other funding streams, such as Title 10, Medicaid, and  
12 the TANF block grant available for abstinence-plus  
13 education. So this funding stream must remain purely  
14 abstinence only. Your amendment obviously does not do  
15 that, and I would urge members to vote against the  
16 amendment.

17 The Chairman. Is there further discussion?

18 [No response]

19 The Chairman. All those in favor of the amendment  
20 say aye.

21 [A chorus of ayes]

22 The Chairman. Those opposed, no.

23 [A chorus of nays]

24 The Chairman. In the Chair's opinion, the ayes have  
25 it. Senator Gramm may have changed his mind. Is that

1 correct?

2 [No response]

3 Senator Grassley. If there are no further  
4 amendments, I move that the committee adopt the  
5 Chairman's mark, as modified and amended, and report the  
6 bill favorably as a substitute for H.R. 4737.

7 The Chairman. Is there a second?

8 Senator Bingaman. I will second it.

9 The Chairman. All those in favor, say aye.

10 [A chorus of ayes]

11 The Chairman. I think the Clerk should call the  
12 roll.

13 The Clerk. Mr. Rockefeller?

14 Senator Rockefeller. Aye.

15 The Clerk. Mr. Daschle?

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Breaux?

18 Senator Breaux. Aye.

19 The Clerk. Mr. Conrad?

20 Senator Conrad. Aye.

21 The Clerk. Mr. Graham?

22 Senator Graham. Aye.

23 The Clerk. Mr. Jeffords?

24 Senator Jeffords. Aye.

25 The Clerk. Mr. Bingaman?

1 Senator Bingaman. Aye.  
2 The Clerk. Mr. Kerry?  
3 The Chairman. Aye, by proxy.  
4 The Clerk. Mr. Torricelli?  
5 The Chairman. Aye, by proxy.  
6 The Clerk. Mrs. Lincoln?  
7 Senator Lincoln. Aye.  
8 The Clerk. Mr. Grassley?  
9 Senator Grassley. Pass over me for a minute.  
10 The Clerk. Mr. Hatch?  
11 Senator Hatch. Aye.  
12 The Clerk. Mr. Murkowski?  
13 Senator Grassley. Aye, by proxy.  
14 The Clerk. Mr. Nickles?  
15 Senator Grassley. No, by proxy.  
16 The Clerk. Mr. Gramm?  
17 Senator Grassley. No, by proxy.  
18 The Clerk. Mr. Lott?  
19 Senator Grassley. No, by proxy.  
20 The Clerk. Mr. Thompson?  
21 Senator Grassley. No, by proxy.  
22 The Clerk. Ms. Snowe?  
23 Senator Snowe. Aye.  
24 The Clerk. Mr. Kyl?  
25 Senator Kyl. No.

1           The Clerk.    Mr. Thomas?

2           Senator Grassley.   No, by proxy.

3           The Clerk.    Mr. Chairman?

4           The Chairman.   Aye.

5           The Clerk.    Mr. Grassley?

6           Senator Grassley.   No.

7           The Clerk.    Mr. Chairman, the tally of votes without  
8 proxies is 10 ayes, 2 nays. The final tally including  
9 proxies is 13 ayes, 8 nays.

10          The Chairman.   13 ayes, 8 nays. It is agreed to.

11          Senator Grassley.   I would like to correct the  
12 record in regard to the vote I cast for Senator Gramm by  
13 proxy. The vote on the Kyl amendment should have been,  
14 by proxy, present.

15          The Chairman.    I would like to thank all Senators  
16 very, very much for staying so we could have a quorum to  
17 conduct our business.

18          I would ask that the staff be given authority to make  
19 technical corrections. The committee is adjourned.

20          [Whereupon, at 12:42 p.m. the meeting was concluded.]

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118 pp.  
6-26-02

**UNITED STATES SENATE  
COMMITTEE ON FINANCE**

**Max Baucus, Chairman**

**Wednesday, June 26, 2002  
10:00 a.m.**

**215 Dirksen Senate Office Building**

**Agenda for Business Meeting**

- I. A substitute for H.R. 4737, the Work, Opportunity, and Responsibility for Kids (WORK) Act of 2002.**



# Committee On Finance

Max Baucus, Chairman

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## NEWS RELEASE

<http://finance.senate.gov>

For Immediate Release

Wednesday, June 26, 2002

Contacts: Michael Siegel, Lara Birkes

202-224-4515

### STATEMENT OF CHAIRMAN MAX BAUCUS THE WORK, OPPORTUNITY, AND RESPONSIBILITY FOR KIDS ACT OF 2002

We are meeting to consider the reauthorization of the 1996 welfare reform law, known as the Temporary Assistance for Needy Families program, or "TANF." The 1996 welfare reform law was a landmark. The old system had failed and we were spending billions, but had little to show for it. So we tried something new. We tried, in the words of the introduction to the 1996 Act, to "end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage."

At the time, the 1996 Act was very controversial. But in retrospect, it is clear that, by and large, the Act has worked well. Hundreds of thousands of people have left welfare for work. The cash welfare caseload fell more than 50% between 1996 and 2001. This is unprecedented.

In my own state of Montana, the trend was similar, with a caseload decline of more than 50% before a rise in recent months as our economy has generated fewer jobs. Perhaps even more important, the level of child poverty in this country has fallen. Since 1996, it is down by 23%. Overall, the record is good. But, despite our success, there is still more to be done. President Bush put it well. While we are encouraged by the initial results of welfare reform, we are not content. After all, the goal is not simply to "end welfare as we've known it." Rather, as the President put it, "the ultimate goal is to reach a "post-poverty America." So there's more to be done.

For example, we have to focus more attention on the hardest cases. On families that face complicated and difficult challenges, children with disabilities, and adults with little or no education or work skills and with mental conditions or substance abuse problems. In addition, we've learned that getting a job isn't always a ticket out of poverty. Studies show that, when people leave welfare for work, many find jobs that pay too little. Many others have trouble working continuously because of breakdowns in child care arrangements. So, if we want to make a lasting difference, we need to provide some further help with child care, health care, and the other things that will help parents stay off welfare and in the job market. These are some of the primary challenges we face as we reauthorize the 1996 Act.



With that as background, let me explain where things stand. The President's proposal is a good start. By and large, it builds on the framework of the 1996 Act and makes some important improvements. But it may not do enough to address all of our remaining problems. With that in mind, after the President's proposal was released, I asked our subcommittee chairman, Senator Breaux, to work with other members of the committee to identify even more common ground. He did just that. Characteristically, he reached across ideological boundaries and across the political aisle. He worked especially closely with Senator Hatch, Senator Snowe, Senator Rockefeller, Senator Jeffords, and Senator Lincoln. Together, they built on the President's proposal and developed a framework for a solid, bipartisan bill. It improves on the President's proposal. It identifies further common ground. It has broad support, across party lines and it serves as the basis for the chairman's mark that I am proposing to the committee today.

Specifically, here's what the Chairman's Mark would do. First of all, we strengthen and refine the work requirements. Drawing on the President's proposal, we increase required work participation rates from 50% to 70% by 2007. We increase the "base" work requirement from 20 to 24 hours per week. We require states to implement "universal engagement" procedures to ensure every welfare recipient has a plan for leaving welfare for self-sufficiency and is following through on that plan.

I particularly appreciate the help of Senator Hatch on this issue. He worked with the President's proposal, and refined it to reflect Utah's successful program. That way, he made a good proposal even better. We replace the "caseload reduction credit" with an employment credit which rewards states when they move welfare recipients to work, not simply when they cut families off from aid. Senator Lincoln took the lead here, and developed a good proposal.

There's another important part of the bill. We don't just focus on requiring work. We also focus on supporting work, by providing people more of the resources that they may need in order to get a good job and keep it. We increase child care funding by \$5.5 billion over the next five years. That's about \$2.5 billion above the cost of meeting the increased costs generated by the bill. All told, it means that we will help states provide child care coverage to an additional 100,000 kids each year. I know that is not as much additional child care as many on my side would like. But it's a substantial increase.

We do to support work. We simplify the rules for distributing child support collections in favor of custodial parents. This is very important. It puts more child support money in the hands of the parents who need it. I thank Senator Snowe for her long effort to make this improvement. We allow recipients to participate in up to two years of vocational training, including community college programs which lead to an employment-related certificate.

Under the leadership of Senator Breaux, we continue transitional Medicaid coverage, and simplify its procedures, so that those who leave welfare for work don't lose health coverage. On top of all this, we give states some additional flexibility and

additional resources, so that they can continue and expand their creative work. We increase the supplemental grant program, and revise the formula to provide further help to low income states.

Because of the creative work of Senator Rockefeller and Senator Bingaman, we create a \$200 million Business Link Partnership grant program. We provide new resources to tribal governments, including a \$75 million "Tribal TANF Improvement Fund." This is particularly important for me. In Montana about half of our TANF recipients are Indians and our reservations continue to struggle economically. It's tough to go from welfare to work, when there simply isn't any work. We need to do better and this proposal is a start.

We provide \$200 million a year in demonstration grants to test strategies to promote healthy marriages. Now, as many members know, I've been somewhat skeptical about the need for the government to get involved in this area, but this is a priority for the President and for many members, and the programs are voluntary. In the spirit of compromise, I'm prepared to give it a try.

With respect to state flexibility, we allow states to choose to have recipients participate in rehabilitative services, such as substance abuse treatment and basic literacy, for up to 6 months out of 24 months, provided the last 3 months incorporate job-readiness activities. We also allow states with programs operating under welfare waivers expiring on or after October 1, 2002 to continue them through September 30, 2007, provided they comply with the new universal engagement requirement. Those are the key provisions. All told, this is a sweeping bill, which continues the journey we started in 1996 when we "ended welfare as we knew it." It's not perfect, but I believe it reflects a reasonable middle ground among many competing perspectives. On the whole, it strikes a balance. We raise the bar, we keep costs moderate and we maintain state flexibility. Again, I thank Senator Breaux and the many members who have worked so hard to put it together.

Before I close, I want to pay particular thanks to Senator Grassley. We've talked a lot about these issues and he's worked hard to find a middle ground as well. He's someone who wants to get things done, in the interests of the committee and the country, and his work on this bill is another example of that.

**Statement of Senator James Jeffords for the  
Finance Committee Markup of the WORK  
Act of 2002**

Thank you. I am very happy to be here today and very happy that the Finance Committee is moving forward on this important reauthorization. Let me begin by thanking you, Chairman Baucus, for setting aside this time and for all the work you and your staff have done to bring us to this point. I look forward to continuing to work with you as we move forward through Committee and onto the Senate floor. Thank you Ranking Member Grassley for the hard work you and your staff have done as well. I would also like to thank my colleagues Senator Hatch, Rockefeller, Snowe, Breaux and Lincoln. That group came together to find

common ground around a very difficult set of issues. I am proud of the work that we have done thus far and believe that we have managed to develop a truly moderate, bipartisan compromise. This is a compromise package that has something for everyone here, but most importantly, I believe it will allow our States to help those residents who need the most assistance on the road to self-sufficiency.

I believe the bill before us provides our States with additional, needed flexibility. The Chairman's mark would allow States to let people participate in vocational education and training for 24 months, an increase from the current 12 months. In my state of Vermont, this will allow welfare recipients to engage in trade

apprenticeships and certificate programs that will allow them to develop the skills that will bring higher paying jobs and increased independence. States will also have the flexibility to aid people struggling with a lack of education, disabilities, mental health or substance abuse problems. It is also my hope that we will allow States the flexibility to create post-secondary education programs to open more doors for welfare recipients.

While I am pleased with the great work this committee has done to get this bill to mark-up, I do not believe we provide enough additional funding for child care. We must protect and support working families and their children. We must never force parents to choose between their

job and caring for their children. Too many working families simply cannot afford quality child care on their own. I hope we can all continue to work together to address this critical issue.



NATIONAL PUERTO RICAN COALITION, INC.

**FAX      TRANSMISSION      COVER      SHEET**

**DATE:** 7/3/02

**TO:** Amber  
Senate Finance Committee

**FAX:** 202-228-0554

**RE:** Written statement submission for the record

**SENDER:**

Elisa M. Melendez, Public Policy Fellow

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Submitted to:

United States Senate  
Committee on Finance

Markup of the Work, Opportunity and Responsibility for Kids (WORK) Act of 2002.  
Wednesday, June 26, 2002, at 10 a.m.

Thank you Chairman Baucus and Members of the Committee for holding this hearing and for accepting this testimony on behalf of the Latino Coalition for Families, an ad-hoc coalition of national organizations advocating for the advancement of Latino Families. Coalition members include the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the Labor Council for Latin American Advancement (LCLAA), MANA: A National Latina Organization (MANA), the Mexican American Legal Defense & Educational Fund (MALDEF), the National Campaign for Jobs & Income Support, the National Conference of Puerto Rican Women (NACOPRW) the National Council of La Raza (NCLR), the National Latina/o Lesbian, Gay, Bisexual, and Transgender Organization (LLEGO), the National Puerto Rican Coalition (NPRC), the National Puerto Rican Forum (NRPF), the Poverty and Race Research Action Council (PRRAC), and the Puerto Rican Legal Defense & Educational Fund (PRLDEF), of which MALDEF and NPRC serve as Co-Chairs of the Latino Coalition for Families.

The LCF was formed to provide recommendations for the 2002 federal reauthorization of Temporary Assistance to Needy Families (TANF). The coalition's top priorities for TANF include providing access for immigrants, overcoming language barriers for clients with limited English proficiency, and addressing disparities in Puerto Rico.



We believe all hard working families, and especially their children, should have access to the tools that allow people to move from welfare to work and achieve independence. Latinos still lag behind other groups when examining poverty level, median income and unemployment rates. Through this reauthorization of TANF Congress can further improve the TANF law so as not to exclude Latinos.

The Chairman's mark gives states the option to use federal TANF dollars to provide needed work support services to legal immigrants. This is a great improvement to the current law's ban on serving legal immigrants during their first five years, which undermined the health status of many Latino children and placed an undue financial burden on states with large and emerging immigrant populations. Unfortunately, the proposed Senate WORK Act is silent on Medicaid and the state Children's Health Insurance Program (SCHIP) although there is widespread support from the National Governors Association, National Conference of State Legislatures, and the American public for restoring health benefits to immigrants. Historically we are an immigrant nation and still today our economy relies on the labor of millions of immigrants who live and work in the United States. Immigrants make significant economic contributions to our nation and should not be denied the basic safety net services supported by their own tax dollars.

Improved English proficiency is key to moving many Latino parents off of the TANF rolls. The Chairman's mark makes some effort to help Latino parents gain the skills needed to participate fully in the labor market by allowing full-time participation in programs that improve English proficiency for three out of twenty-four months and for an additional three months when combined with work activities. However, this six-month time frame underestimates the significant investment needed to improve English proficiency. The ability under current law to include English language instruction in the definition of vocational education must be encouraged and used by states in addition to the WORK Act's improvements in order to effectively train TANF recipients to move into higher-paying jobs that will provide a ladder out of poverty.

Puerto Rico's obligations and regulatory requirements under TANF are the same as the states. However, resources available to the Island differ significantly from those available to other TANF grantees. Puerto Rico's TANF funding is limited by law because it falls under a single statutory cap that constricts total overall funding for three separate programs: TANF, IV-E Foster Care, and Aged, Blind, and Disabled Assistance (ABD). Therefore, though the Chairman's mark did increase Foster Care funding for Puerto Rico, as long as Foster Care is included in the cap there will always be a limit in funding. Abused and neglected children should not have to compete with the elderly and other vulnerable populations for needed services.

The Chairman's mark also included the authorization of Puerto Rico for participation in the mandatory childcare program; this is a very significant and commendable step. Yet participation in the Contingency Fund was denied for Puerto Rico. The Contingency fund is intended to assist states in times of economic downturns that cause high unemployment rates or increased food stamp caseloads - all TANF grantees should be

provided this insurance. Also Supplementary grants, which are intended to give extra assistance to states with high population growth or low Federal spending per poor person, were denied for Puerto Rico despite the fact that Puerto Rico's TANF grant is only 6.5% of the national average. In FY 2000 the states received TANF grants that averaged \$533.97 per person in poverty, while Puerto Rico's TANF grant is \$34.78 per person in poverty per year. In addition, the Senate proposal includes an additional 12 months of reimbursements to states for transitional healthcare coverage for families moving to work. However, no coverage was extended for Puerto Rican families confronting the same challenges. With an unemployment rate of 12 to 13 percent (three times the national average), a poverty rate of nearly 50 percent, and without access to the same support programs as the states, it will be challenging for Puerto Rico to continue to meet all of the requirements under the chairman's mark.

The LCF thanks the Senate for the improvements made thus far and encourages further improvements. Thank you for your time and attention to our nation's Latino population.

**Description of the  
"Work, Opportunity, and Responsibility for Kids (WORK) Act of 2002"**

Scheduled for Markup  
By the  
SENATE COMMITTEE ON FINANCE  
on June 26, 2002

June 24, 2002

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# ***Work, Opportunity, and Responsibility for Kids (WORK) Act of 2002 Chairman's Mark***

## **Findings**

### ***Current Law***

P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996; made a series of findings related to marriage, responsible parenthood, trends in welfare receipt and the relationship between welfare receipt and non-marital parenthood, and trends in and negative consequences of non-marital and teen births.

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

The mark makes several findings: PRWORA was a fundamental change. Cash caseloads are down more than 50%, and about two-thirds of former recipients have left for work. More than one-half of Temporary Assistance for Needy Families (TANF) spending now goes for work supports, not traditional cash aid. Although child poverty rates have decreased, they could be lower and remain high compared to other developed nations. More investments in quality child care and other work supports are needed. Although employment has increased, some recipients are not engaged in any job preparation activity; and universal engagement of recipients should be required. Some TANF families face multiple barriers and need a range of services. States should help all troubled families. Children deserve supportive homes, preferably with two parents, and discrimination against two-parent families in welfare programs should end. Welfare reform has worked because it is a flexible partnership with the states. States have had to assume new responsibilities and need to upgrade skills of workers. Studies indicate disparate racial treatment.

## **Title I - FUNDING**

### **Section 101 - TANF**

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

The law provided \$16.5 billion annually for family assistance grants to the states for FY1997-2002. Basic grants were computed from federal expenditures for TANF's predecessor programs during FY1992 through FY1995. The law also provided supplemental grants for 17 states with low historic federal grants per poor person and/or high population growth for FY1998-FY2001 (extended through September 30, 2002 at FY2001 funding level of \$319 million by P.L. 107-147). Supplemental grants grew each year (except for FY2002), from \$79 million in FY1998 to \$319 million in FY2001. The FY2002 TANF funding total for basic and supplemental grants was \$16.9 billion.

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

The mark extends TANF funding through FY2007 and provides \$16.5 billion annually for basic grants to the states. It also extends and expands the TANF supplemental grants so as to

qualify 24 states at a total cost of \$441 million per year. States currently receiving a supplemental grant would receive, at minimum, their current amount of funding. States with per capita incomes at least 10% below the national average receive a 5% increase in TANF funding; states with per capita incomes at least 20% below the national average receive a 10% increase in TANF funding. The supplemental grants are folded into the main TANF block grant, rather than continuing it as a separate funding stream. In addition, see Section 803 for research funding provisions and Section 108 for territories funding provisions.

## **Section 102 - Contingency fund**

### ***Current Law***

The law provided capped matching grants (\$2 billion) in case of recession for FY1997-FY2001 (extended through September 30, 2002 by P.L. 107-147). To qualify for contingency dollars, states must spend under the TANF program a sum of their own dollars equal to their pre-TANF spending and must have been "needy" in the most recent 3-month period. To qualify as needy the state's total unemployment rate (seasonally adjusted) must be at least 6.5% and up 10% from the corresponding rate in at least 1 of the 2 preceding years or its food stamp average monthly caseload must be up 10%, compared to what enrollment would have been in the corresponding period of FY1994 or FY1995, as determined by the Secretary of Agriculture, if changes made in the 1996 welfare law to food stamp rules and alien eligibility had been in effect throughout FY1994 and FY1995.

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

The mark reauthorizes the contingency fund with several changes. It reduces the state maintenance-of-effort (MOE) requirement for the fund from 100% of historic spending levels to the standard TANF MOE requirement (75% in general but 80% if state fails work participation standards). It bases state contingency grants on the estimated cost of the caseload increase and revises "needy" state unemployment and food stamp triggers. To qualify as needy, one of the following criteria must be met: (a) a state's total unemployment rate must rise by the lesser of 1.5 percentage points or 50% or its average insured unemployment rate must rise by 1 percentage point, compared with the corresponding 3-month period in either of the two most recent preceding fiscal years; (b) the monthly average number of food stamp households must rise 10% above the number in the corresponding 3-month period in either of the two most recent preceding fiscal years; or (c) the monthly average number of families receiving assistance under the TANF program or under a state-funded program must rise 10% above the number in the corresponding 3-month period in either of the two most recent preceding fiscal years, provided that the Secretary of HHS determines that the increased TANF caseload was caused, in large measure, by economic conditions rather than state policy. In order to be eligible for contingency funds, a state can have unobligated TANF reserves of no more than 25% of total TANF grants (other than welfare-to-work grants) made to it.

## **Section 103 - Child care**

### ***Current Law***

The law for the Child Care and Development Block Grant (CCDBG) entitles states to a basic mandatory block grant ("guaranteed") based on FY1992-1995 expenditures in welfare-related child care. Additional mandatory funds above this amount are provided to states on a

matching basis. PRWORA provides these entitlement (mandatory) funds for FY1997 through FY2002. Mandatory funds provided for FY2002 totaled \$2.717 billion.

No provision in TANF requires child care providers funded directly within TANF to be in compliance with any designated health and safety requirements. However, any funds transferred from TANF to the CCDBG must be spent in accordance with CCDBG rules. CCDBG requires that child care providers comply with applicable state and local health and safety requirements, which must include prevention and control of infectious diseases (including immunizations), building and premises safety, and minimum health and safety training appropriate to the provider setting.

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

The mark provides mandatory child care funding in CCDBG at the following levels: \$3.717 billion in each of FY2003-FY2005; \$3.967 billion in FY2006, and \$3.967 billion in FY2007. Given the current difficulties in state budgets, the increase to \$3.717 billion is in the "guaranteed" portion of mandatory funding (requiring no match); the increase beyond that requires a state match. In addition, states are required to certify in their state TANF plans that procedures are in effect to ensure that any child care provider delivering child care services funded by TANF complies with the health and safety requirements applicable to the Child Care and Development Block Grant.

#### **Section 104 - Legal immigrant option in TANF**

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

The law makes legal immigrants ineligible for federally funded TANF for the first 5 years after their entry into the U.S.

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

The mark permits, at state option, states to use TANF funds to assist legal immigrant families who have arrived since enactment of the 1996 welfare reform law on August 22, 1996. It requires states taking the option to deem immigrants' income to include income of sponsors for 3 years after entry for purposes of determining eligibility.

#### **Section 105 - Use of funds**

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

The law permits TANF funds to be used "in any manner reasonably calculated" to promote any of the program's goals. States also may use TANF funds to continue other activities that they were authorized to undertake in individual state plans under TANF-predecessor programs. No more than 15% of funds can be used for administrative purposes (but this limit does not apply to spending for information technology and computerization needed for required tracking or monitoring). Funds may not be used to finance the construction or purchase of building or to provide medical services.

TANF funds may be carried over from fiscal year to fiscal year for "assistance," defined in regulations as benefits designed to meet a family's ongoing basic needs, plus supportive services

for families who are not employed. Funds used for "nonassistance" must be obligated by the end of the fiscal year for which they are awarded and spent by the end of the next year. States may transfer up to 30% of TANF funds to CCDBG and Social Services Block Grant (SSBG) Within the 30% cap, funds may serve as state match for Job Access/Reverse Commute grants.

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

The mark permits carryover of TANF funds for nonassistance without fiscal year spending limit. It also permits transfer of TANF funds to Job Access/Reverse Commute projects. It clarifies that the general 15% cap on administrative expenditures applies to the full TANF allocation, no matter how much funding is transferred. It also permits states to use TANF grants for minor housing rehabilitation costs, as defined by the state, and defines supplemental housing benefits as payments to or on behalf of a person to reduce or reimburse costs for housing accommodations.

#### **Section 106 - Definition of assistance**

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

Parents and other caretakers who receive assistance are subject to work requirements and time limits, and they are required to assign child support payments to the states. (In addition, states are subject to detailed reporting requirements about recipients of assistance, including their financial and demographic characteristics and their work activities.) The law does not define "assistance." Regulations define it as ongoing aid to meet basic needs, plus support services such as child care and transportation subsidies for unemployed recipients. Assistance does not include short-term benefits.

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

The mark defines child care funded directly by TANF, transportation subsidies, and supplemental housing benefits as "nonassistance." It also includes, at the request of the Agriculture Committee, a technical amendment to insure that the changes to the definition of TANF assistance/nonassistance do not change states' option to use TANF vehicle asset rules in the food stamp program.

#### **Section 107 - Maintenance of effort**

##### ***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 allows a state to count as a qualifying MOE expenditure amounts of child support arrearages passed through to former TANF families.

### **Section 108 - Territories**

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

The combined annual federal funding for public assistance programs for Puerto Rico, Guam, the Virgin Islands, and American Samoa is capped at a maximum dollar amount. The cap, which totals \$116.5 million, covers the combined federal TANF family assistance grants (\$77.9 million annually) plus funds available for adult assistance, child protection, and Section 1108(b) matching grants (\$38.6 million annually). Funds above the TANF family assistance grant level are available on a 75% matching basis for adult public assistance, TANF, or Title IV-E programs (foster care, adoption assistance, and independent living).

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

The mark increases the total annual cap on federal funding for public assistance programs for the territories from \$116.5 million to \$119.6 million. New caps, compared with current ones: Puerto Rico, \$109,936,375 (\$107,255,000); Guam, \$4,803,150 (\$4,686,000); Virgin Islands, \$3,642,850 (\$3,554,000); and American Samoa, \$1,250,000 (\$1,000,000). In addition, \$10 million in mandatory child care funding per year is available to Puerto Rico from the Child Care and Development Block Grant. The mark also extends the appropriation for 1108(b) matching grants.

### **Section 109 - Repeal of loan fund**

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

The law provided an interest-bearing loan fund for state TANF programs, capped at \$1.7 billion.

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

The mark repeals the loan fund.

### **Section 110 - Technical corrections**

## **Title II - WORK**

### **Section 201 - 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.) States must make an initial assessment of the skills, prior work experience, and employability of each recipient 18 years or older or those who have not completed high school within 30 days.

States may, but need not, establish an individual responsibility plan (IRP) for each TANF recipient in consultation with the recipient. The state may reduce the benefit payable to a family that includes a person who fails without good cause to comply with a responsibility plan signed by the recipient.

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

The mark requires states to screen and assess the skills, prior work experience, work readiness, and barriers to employment of each parent or caretaker receiving assistance who has reached age 18 or has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school. It also requires an IRP for each parent/caretaker described above and requires recipient parents or caretakers to participate with the state in this process. The IRP must detail required work activities and needed work supports, address the issue of child well-being and, if appropriate, adolescent well-being. IRPs also must include a section making available to the family information concerning work supports for which they are eligible. Recipient parents or caretakers are required to participate in activities in accordance with the IRP. States are required to have procedures for a periodic review of IRPs.

Beginning in FY2004, new parents and caretakers receiving assistance must have an IRP within 60 days of enrollment, while IRPs for current recipients must be completed by the end of FY2004. The mark also requires the HHS Secretary to develop and disseminate model screening tools to assist states in identifying barriers to employment or program compliance. These tools are to be developed in consultation with individuals and groups with expertise in circumstances such as physical or mental impairments, including mental illness, substance abuse, learning disability, limited English proficiency, or the need to care for a child with a disability. To help states implement the new universal engagement rules, \$120 million is provided to states over 4 years (FY2003-FY2006) for: training to improve caseworkers' ability to identify barriers to work and indicators of child well-being, coordination of support programs for low-income families, conduct of outreach to promote enrollment among eligible families, and advisory panels, charged with reviewing policies and procedures for helping persons with work barriers. Nothing in this section shall be construed as convey an individual or private right of action against the state.

The mark requires HHS to consult with the National Governors Association, American Public Human Services Association, and National Conference of State Legislators in development of these implementation efforts, including in the development of regulations and in the provision of technical assistance. It also requires the General Accounting Office (GAO) to assess implementation of these provisions and to submit a report by September 30, 2004 to the Senate Finance and House Ways and Means Committees.

## **Section 202 - Work participation rates**

### ***Work Participation Rates***

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

Fifty percent of all families with an adult recipient (including 90% of two-parent families other than those with a disabled parent) must engage in listed work activities for specified minimum hours (see below). (Participation rates began at 25% for FY1997 and reached the 50% peak in FY2002. For two-parent families they began at 75% and rose to 90% in FY1999.) States may exempt single parents caring for a child under 1 year old and exclude them from calculation

of participation rates. For first failure to meet the participation rate, the penalty is 5% of the state's basic grant (penalty may be reduced for degree of failure). The state must replace penalty funds with its own. For successive failures, the penalty rate rises.

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

The mark eliminates the separate two-parent participation rate. It increases the work participation rate by 5 percentage points yearly until FY2007, as follows: 55% in FY2004, 60% in FY2005, 65% in FY2006, and 70% in FY2007. The current penalties are maintained.

### ***Employment Credit***

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

A caseload reduction credit reduces a state's required participation rate by 1 percentage point for each percent decline (not attributable to eligibility and other rule changes) in the caseload from its FY1995 level.

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

The mark eliminates the caseload reduction credit and substitutes an employment credit. (For FY 2003, states will have the option to choose to continue under the current caseload reduction credit or the employment credit.) This credit is calculated based upon recipients who leave the rolls and become employed, based upon two quarters of "leavers" from the previous year. The mark also gives states extra credit (1.5 families) for those who leave and take higher-paying jobs, defined as 33% of the average wage in the state. It also allows partial credit for recipients who participate at least 15 hours per week and gives states the option to receive credit for those whom it "diverts" from joining TANF rolls and who subsequently are employed. It allows credit for states that use TANF funds directly for child care and transportation subsidies to working families if they provide relevant data. The total amount of credit a state can receive for the employed leavers, higher-paying jobs, and child care and transportation assistance provisions (taken together) is as follows: FY 2004 - 35%, FY 2005 - 30%, FY 2006 - 25%, and FY 2007 - 20%. States which have met two of the triggers for access to the TANF contingency fund (see section 102) will not be subject to this cap. States which have met one of the contingency fund triggers will be still subject to the cap but will only face the loss of federal funds penalty should they fail to achieve the work participation rates.

### ***Work Hours***

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

Adult recipients generally must work in a countable activity for an average of 30 hours weekly (20 hours if the single caretaker of a child under age 6; at least 35 hours if a two-parent family). Parents with 30-hour requirement must spend 20 hours in priority activities (see below). Teen parents without high school diplomas meet work obligation by education directly related to work for 20 hours weekly or by satisfactory school attendance. (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 maintains general requirement for 30 hours of weekly work participation by most adults while increasing from 20 hours to 24 hours the share of time that must be spent in priority activities. It retains the provision deeming parents of children under 6 to meet the work requirement by engaging 20 hours weekly in any work activity.

### ***Definition of Work Participation, Job Search, Education and Training, Rehabilitative Services***

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

The law lists nine priority activities that can be counted toward the first 20 hours of the work requirement:

- unsubsidized job;
- subsidized private or public job;
- work experience;
- on-the-job training;
- job search (generally limited to 6 weeks per year)
- community service
- vocational educational training (12 month lifetime limit)
- providing care for child of community service participant.

Three other activities are countable: job skills training related to work and (for high school dropouts only) education related to work and attendance at secondary school. Teen parents deemed engaged in work and persons participating in vocational educational training can account for only 30% of all persons credited with work.

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

The mark expands the list of approved priority work activities by:

- Including time-limited "rehabilitative" services, when included in a recipient's IRP, such as substance abuse treatment, mental health treatment, vocational rehabilitation services, adult basic education, and limited English proficiency. (As full-time activities these are limited to 3 months out of 24 months, with an additional 3 months allowed when combined with work or job-readiness activities and included in a recipient's IRP.)
- Increasing from 6 to 8 weeks the period for which full-time job search counts towards the 24 hours of priority activities.
- Increasing from 12 to 24 months, when included in a recipient's IRP, the period for which vocational education may count, including community college programs which result in a credential related to employment or a job skill. (The current cap of 30% on the proportion of recipients who may participate in these activities and count is maintained; however, teen parents required to attend secondary school are no longer counted towards that cap.)

Under the mark, if a recipient participates in other priority activities for 24 hours per week, these new activities may count for the final 6 hours of activities per week, without regard to the time limits described above.

## **Title III - FAMILY PROMOTION AND SUPPORT**

### **Section 301 - Healthy marriage promotion grants**

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

States are eligible to receive a share of a \$100 million per year bonus fund if they demonstrate a reduction in the non-marital birth rate while also reducing abortions. A maximum of five states may be awarded this "illegitimacy" reduction bonus in any year.

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

The mark repeals "illegitimacy" reduction bonus funding. It is replaced by a new Healthy Marriage Promotion grant program to support demonstration projects to promote stronger families, with a focus on the promotion of healthy marriages. The mark provides \$200 million per year for FY 2003-2007. The grants would be available to states, tribes, and non-profit organizations for a specified list of activities. A 25% match would be required with "in-kind" contributions allowable towards the match. The following activities may be awarded grants:

- Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health;
- Voluntary marriage education and marriage skills programs for non-married pregnant women and non-married expectant fathers;
- Voluntary pre-marital education and marriage skills training for engaged couples and for couples interested in marriage;
- Voluntary marriage enhancement and marriage skills training programs for married couples;
- Marriage mentoring programs that use married couples as role models and mentors in at-risk communities;
- Teen pregnancy prevention programs;
- Broad-based income support strategies that provide increased assistance to low-income working parents, such as housing, transportation, transitional benefits, etc. independent of family structure;
- Development and dissemination of best practices for addressing domestic and sexual violence as a barrier to economic security, including caseworker training, technical assistance, and voluntary services for victims.

HHS is required to make public the criteria for awarding grants and the applications of all grant proposals funded. All organizations receiving funding must consult with national, state, local or tribal organizations with demonstrated expertise aiding victims of domestic violence. They must also agree to participate in the evaluation of the program.

The mark requires the National Academy of Sciences to conduct a comprehensive evaluation of programs funded within each listed activity. The mark reserves \$5 million per year from the grant program to support this evaluation, which shall include measures of family structure, conflict, and child well-being. A report describing initial evaluation findings is required from the National Academy of Sciences on or before September 30, 2006.

The mark requires an initial report describing the programs funded by the Secretary of HHS on or before September 30, 2005. Final reports from both HHS and the National Academy of Sciences are due on or before September 30, 2008.

In addition, the General Accounting Office is required to submit a report to the Chairman and Ranking Members of the Senate Finance and House Ways and Means Committees describing the process HHS used to distribute the funds, the activities supported by the funds, and the results of the programs which were supported. This report is due on or before September 30, 2006.

### **Section 302 - Teen pregnancy prevention**

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

PRWORA provides \$250 million in federal funds for abstinence education within the Maternal and Child Health Block Grant (\$50 million per year for 5 years, FY1998-FY2002). Funds must be requested by states when they solicit Maternal and Child Health (MCH) block grant funds (Title V-Section 510 of the Social Security Act), and must be used exclusively for the teaching of abstinence. To receive federal funding, a state must match every \$4 in federal funds with \$3 in state funds.

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

The mark reauthorizes the abstinence education program exactly as under current law; including the \$50 million per year funding level. In addition, \$5 million each year is provided to support a national teen pregnancy prevention resource center, which would offer technical assistance and work with the media to discourage teen-pregnancies.

### **Section 303 - Responsible fatherhood**

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

PRWORA requires states to have laws under which the state has the authority to issue an order or request that a court or administrative process issue an order that requires noncustodial parents who were unable to pay their child support obligation for a child receiving TANF benefits to participate in TANF work activities.

In addition, PRWORA authorized grants to states to establish and operate access and visitation programs. These programs are to facilitate noncustodial parents access/visitation to their children. An annual entitlement of \$10 million 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. States may use the grants to create their own programs or to fund programs operated by courts, local public agencies, or nonprofit organizations. 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.

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

The mark creates a grant program to support expansion or replication of court-supervised employment programs for low-income non-custodial parents to assist them in meeting child support obligations. It also creates a grant program to conduct policy reviews and demonstration projects to coordinate services for low-income non-custodial parents within the child support system. These grants are authorized at \$25 million each year for FY2004-FY2007.

### **Section 304 - Second chance homes**

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

Teen parents must live in adult-supervised settings to be eligible for TANF and a group home for unwed teen mothers – a “second chance” home – qualifies as such a setting.

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

The mark authorizes grants to create or expand maternity group homes – or “second chance homes” – for unwed teen parents. These group homes provide an adult-supervised setting for teenage parents unable to live at home, with parenting classes and efforts to promote long-term self-sufficiency, including discouraging additional unwed births. States, local governments, and non-profit organizations can apply for the grants. The mark authorizes funding of \$33 million per year for FY 2004-FY2007.

## **Title IV - HEALTH COVERAGE**

### **Section 401 - Transitional Medicaid**

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

The law requires states to make transitional (extended) benefits available to families who lose Medicaid eligibility because of increased hours of employment, increased earnings, loss of a time-limited earned income disregard, or increased child or spousal support payments. If the family loses eligibility because of increased earnings or hours of work or because of loss of an earnings disregard, Medicaid coverage is extended for 6 to 12 months. (During the second 6 months a premium can be imposed, the scope of benefits might be limited, or alternate delivery systems might be used.). If the family loses eligibility because of increased child or spousal support, coverage is extended for 4 months. To be eligible for transitional Medicaid, a family must have received TANF in at least 3 of the 6 months immediately preceding the month in which eligibility is lost. Authorization for transitional Medicaid benefits expires on September 30, 2002.

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

The mark extends transitional Medicaid for 5 years. It also permits states to provide continuous Medicaid eligibility for 12 months and, for families with average gross monthly earnings below 185% of the federal poverty guideline (less work-needed child care costs) as of the end of their first year of transitional benefits, to extend benefits for another year (a total of 24 months). It allows states to drop the requirement that families must have been on TANF for 3 of the preceding 6 months in order to be eligible. It requires states to collect information on

monthly enrollment in transitional Medicaid and on average monthly participation rates for adults and children.

## **Title V - CHILD SUPPORT AND CHILD WELFARE**

### **Section 501 - Distribution**

#### *Assignment Rule*

#### *Current Law*

Federal law requires that as a condition of receiving TANF funds, the parent or caretaker relative must assign her or his rights to child support to the state. The assignment covers any child support that accrues (or had already accrued before the family enrolled in TANF) before the date the family leaves the TANF program. The assignment must not exceed the total amount of assistance paid to the family. Any child support assignment to the State in effect on September 30, 1997 (or at state option, an earlier date not before August 22, 1996) must remain assigned after such date.

#### *Chairman's Mark*

The mark limits the child support assignment to the period in which the family receives TANF benefits. Any child support assignment to the state in effect on September 30, 1997 (or at state option, an earlier date not before August 22, 1996) may, at state option, remain assigned after such date.

#### *Families Receiving TANF*

#### *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 that have been paid to the family. In other words, the state can decide how much, if any, of the state share of the child support payment collected on behalf of TANF families to send to the family. However, the state is required to pay the federal government the federal share of the child support collected.

#### *Chairman's Mark*

The mark maintains current law on assignment rules for families on TANF. However, if a state has a Section 1115 waiver (that became effective on or before October 1, 1997) that allows for pass through of child support payments, the state may pass through those payments in accordance with its waiver.

For families receiving TANF benefits (for not more than 5 years after enactment of this bill), the mark requires the federal government to share in the cost of child support collections passed through to TANF families by the state and disregarded by the state in determining the family's TANF benefit, up to \$400 per month in the case of a family with less than two children, and up to \$600 per month in the case of a family with two or more children.



## *Families Who Formerly Received TANF*

### ***Current Law***

Current child support payments must be paid to the family if the family is no longer on TANF. 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. 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***

The mark simplifies child support distribution rules to give states the option of providing families that have left TANF the full amount of the child support collected on their behalf (i.e., both current child support and child support arrearages). The federal government would share with the states the costs of paying child support arrearages to the family first.

### ***Financing Options***

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

None.

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

Under the mark, to the extent that the arrearage amount payable to a former TANF family in any given month exceeds the amount that would have been payable to the family under current law, the state may elect to use TANF funds to provide the amount to the family or the state can elect to have the amount paid to the family considered an expenditure for MOE purposes. The state can elect one of the two options, but not both. Also, 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 maintain the old distribution method.

### ***Ban on Recovery of Medicaid Costs for Certain Births***

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

No provision.

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

The mark prohibits states from using the Child Support Enforcement program to collect money from non-custodial parents in an attempt to recoup birthing costs paid by the Medicaid program.

## **Section 502 - Mandatory review and adjustment**

### ***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 adjust (if appropriate) child support orders at the request of the State Child Support Enforcement agency or of either parent.

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

The mark requires states to review child support orders in both TANF and non-TANF cases every 3 years, and at the request of either parent in both cases or the state CSE agency (in the case of a TANF family).

## **Section 503 - 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.

## **Section 504 - Tax intercept, post-18**

### ***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.

## **Section 505 - Financing and administrative review**

### ***Current Law***

No provision.

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

The mark provides States with \$50 million in FY2003 to: (1) review policies on collecting fees; (2) review the new distribution options and prepare for implementation of them; (3) update automated systems for policy changes; (4) improve customer service; (5) examine causes and solutions of undistributed collections; (6) examine the buildup of arrears and approaches to arrears management; (7) examine approaches to improving interstate collections; (8) examine approaches to improving percentage of cases with orders; and (9) examine the review and adjustment policies for families on TANF. Every state would receive at least \$750,000.

## **Section 506 - Tribal child support regulations**

### ***Current Law***

The Administration for Children and Families (ACF) issued an interim final rule on August 21, 2000 to implement direct funding to Indian tribes and tribal organizations under Section 455(f) of the Social Security Act. The interim final rule enables tribes and tribal organizations currently operating a comprehensive tribal CSE program directly or through agreement, resolution, or contract, to apply for and receive direct tribal CSE funding. While this interim final rule makes certain tribes and tribal organizations immediately eligible for direct funding upon approval of their applications by the HHS Secretary, the proposed rule, upon publication in final form, would apply to a wider range of tribes and tribal organizations, i.e., tribes and tribal organizations that do not already operate comprehensive CSE programs and need program development funding for start-up CSE programs.

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

The mark requires HHS to promulgate final regulations concerning tribal child support programs within 1 year of enactment.

## **Section 507 - Report on undistributed collections**

### ***Current Law***

No provision.

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

The mark requires the HHS Secretary to submit to Congress a report on the procedures states use to locate custodial parents for whom child support has been collected but not yet distributed within 6 months of enactment. The report is to include recommendations on actions to expedite the payment of undistributed child support.

## **Section 508 - Use of new hire data**

### ***Current Law***

Federal law requires all employers in the nation to report basic information on every newly-hired employee to the state. States are then required to collect this information in the State Directory of New Hires, to use it to locate non-custodial parents who owe child support and to send a wage withholding order to their employer, and to (within 3 business days) report all information in their State Directory of New Hires to the National Directory of New Hires. Information in the State Directory of New Hires is used by State Employment Security Agencies (the agency that operates the State Unemployment Compensation program) to match against unemployment compensation records to determine whether people drawing unemployment compensation benefits are actually working. (States currently have access to the new hire information for their own state.)

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

The mark authorizes State Employment Security Agencies (which are responsible for administering the Unemployment Compensation program) to request and receive information from the National Directory of New Hires (which includes information from all of the state directories as well as Federal employers) to match against unemployment compensation records to determine whether people drawing unemployment compensation benefits are actually working.

## **Section 509 - Reinstatement of annual HHS child support report**

### ***Current Law***

Federal law requires states to make annual reports to the HHS Secretary on the Child Support Enforcement program, including such information as may be necessary to measure state compliance with federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the state Child Support Enforcement agency will determine the extent to which the program is operated in compliance with Child Support Enforcement law.

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

The mark requires HHS to provide an annual report with data on the performance of state child support programs.

## **Section 510 - Extension of child welfare waiver authority**

### ***Current Law***

Federal law permits the HHS Secretary to conduct 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 for FY1998 through FY2002.

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

The mark extends this authority through FY2007.

## **Section 511 - No limitation on number of child welfare waivers**

### ***Current Law***

No current provision. However, HHS has expressed a "preference" for projects "that are submitted by States that have not previously been approved for a child welfare demonstration project." (See ACYF-CB-IM-2000-01 from Children's Bureau, dated February 4, 2000.)

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

The mark prohibits the HHS Secretary from limiting the number of waivers or demonstration projects that may be granted to a single state.

## **Title VI - TRIBAL ISSUES**

### **Section 601 - Tribal TANF improvement fund; economic development**

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

The law earmarks some TANF funds (subtracted from the TANF grant of the state containing the tribes' service area) for direct administration by applicant Indian tribes and Alaska native organizations. The amount equals federal AFDC payments to the state for FY1994 attributable to Indian families. Annual federal funding for 36 TANF tribal assistance programs covering about 24,000 families now totals \$97.5 million. State funds contributed toward an approved tribal plan may be counted toward the TANF maintenance-of-effort spending requirement, but some tribes receive no state funds. The Secretary, with participation of tribes, establishes work participation rules, time limits for benefits, and penalties for these programs. In applying TANF's 60-month limit on the use of federal funds for ongoing assistance to 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% of the adults are employed. In general, tribal programs in Alaska must be comparable to those operated by the state of Alaska. Some tribes, those that operated their own JOBS work/training programs before TANF, also receive an annual appropriation of \$7.6 million for work and training (renamed Native Employment Works). In addition, \$28.6 million in welfare-to-work grants was awarded for FY1998 and FY1999 by the Labor Department to Indian and Native tribal governments.

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

The mark extends the authorization for tribes to operate TANF programs. The mark also creates a "tribal TANF improvement fund," funded at \$75 million for FY 2003-2006, to support tribal capacity grants for tribal human services infrastructure (\$35 million), for tribal development grants to provide technical assistance in improving reservation economies (\$35 million), and technical assistance, including peer-learning and feasibility studies (\$5 million). In addition, it consolidates job training programs into a new Tribal Employment Services Program, funded at \$37 million yearly; and sets aside \$25 million of the TANF contingency fund for tribes. For time limit purposes, the mark requires, with the exception of Alaska, the disregard of months of assistance received by an adult while living in an area in which 20% of adult TANF recipients are jobless but requires recipients to comply with program rules. The mark gives states authority to define work activities for recipients in regular TANF state programs who live in Indian country areas in these high joblessness areas. (Tribes operating TANF programs already have

similar flexibility.) The mark requires HHS to convene an advisory committee on the status of non-reservation Indians and requires the HHS Office of Faith-Based and Community Initiatives to convene an advisory committee of Indians expert in social services and the spiritual aspects of traditional Indian cultures. For all provisions above, the current rules concerning eligible entities in Alaska would be maintained and applied. The mark requires GAO to study the demographics of Indians not residing on reservations, with information about their economic and health status and their access to public benefits.

## **Section 602 - Tribal IV-E eligibility**

### ***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 mark allows, beginning in FY 2004, 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 mark 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 mark 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.

## **Title VII- Innovation, Flexibility, and Accountability**

### **Section 701 - Data collection; performance measures**

#### *Current Law*

##### *Data Collection*

States are required to collect monthly, and report quarterly to HHS, disaggregated case record information (but may use sample case record information for this purpose) about recipient families. Required family information includes county of residence, whether a member received disability benefits, ages of members, size of family and the relation of each member to the family head, employment status and earnings of the employed adult, marital status of adults; race and educational level of each adult; race and educational level of each child; whether the family received subsidized housing, medicaid, food stamps, or subsidized child care (and if the latter two, the amount); number of months that the family received each type of aid under the program; number of hours per week, if any, that adults participated in specified activities (education, subsidized private jobs; unsubsidized jobs, public sector jobs, work experience, or community service, job search, job skills training or on-the job training, vocational education); information needed to calculate participation rates; type and amount of assistance received under the program; including the amount of and reason for any reduction of assistance; unearned income; citizenship of family members; number of families and persons receiving aid under TANF (including the number of two-parent and one-parent families); total dollar value of assistance given; total number of families and persons aided by welfare-to-work grants (and the number whose participation ended during a month); number of non-custodial parents who participated in work activities; for each teenager, whether he/she is the parent of a child in the family. From a sample of closed cases, the quarterly report is to give the number of case closures because of employment, marriage, time limit, sanction, or state policy.

#### *Chairman's Mark*

The mark deletes the data element of the education level of each child and substitutes an element on whether a individual responsibility plan has been established. Under the mark, states are required to make public a summary of the financial and program data submitted to HHS when the data is transmitted, including posting the information on the state's web-site.

#### *Performance Measures*

For the purpose of the TANF High Performance Bonus, the Secretary of HHS developed a formula to measure state performance. For FY1999 through FY2001, bonuses were awarded based on job entry and retention rates, quarterly earnings, and earnings gain. Data on these measures was submitted by each state that wanted to compete for a High Performance Bonus. Beginning with FY2002, bonuses will be awarded based on these employment-related measures,

as well as measures relating to the share of children in married couple families, participation in other low-income assistance programs, and child care affordability.

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

The TANF High Performance bonus is repealed. (See Section 704.) HHS is required to annually report data for each state on welfare-to-work performance, based on measures of job entry, job retention rates, quarterly earnings, and earnings gain. In addition, a national goal of reducing teen pregnancies by one-third is established. HHS is required to issue an assessment of progress toward the goal, including state-level data on teen pregnancies and each state's progress toward achieving the goal.

## **Section 702 - TANF state plans**

### ***Current Law***

To receive TANF block grant funds, the Secretary of HHS must certify a state has submitted a "complete" state plan. Each state must outline, in a 27-month plan, how it intends to: conduct a program providing cash assistance to needy families with children and providing parents with work and support services; require caretaker recipients to engage in work (at state definition) after 24 months of aid or sooner, if then judged work-ready; ensure that caretakers engage in work in accordance with the law; take steps deemed necessary by the state to restrict use and disclosure of information about recipients; establish goals and take action to prevent/reduce the incidence of out-of-wedlock pregnancies; and conduct a program providing education and training on the problem of statutory rape. In addition, the plan must indicate whether the state intends to treat families moving into the state differently from others; indicate whether the state intends to aid legal immigrants; set forth objective criteria for benefit delivery and for fair and equitable treatment; and provide that, unless the governor opts out by notice to HHS, the state will require a parent who has received TANF for 2 months and is not work-exempt to participate in community service employment. In the plan the state must certify that it will operate a child support enforcement program and a foster care and adoption assistance program and provide equitable access to Indians ineligible for aid under a tribal plan. It must certify that it has established standards against program fraud and abuse. It must specify which state agency or agencies will administer and supervise TANF. It also must include assurances that local government and private sector organizations have been consulted regarding the plan so that services are provided in a manner appropriate to local populations and have had at least 45 days to submit comments on the plan and the design of such services. In addition, the state may opt to certify that it has established and is enforcing procedures to screen and identify recipients with a history of domestic violence, to refer them to services, and to waive program rules for some of them.

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

Under the mark, for a state to receive TANF funds, the Secretary of HHS must certify a state has submitted a "complete" state plan. Each state must outline, in a 24-month plan, how it: conducts a program providing cash assistance to needy families with children and providing parents with work and support services; requires parents or caretakers receiving assistance to engage in work or work readiness activities (at state definition); takes steps deemed necessary by the state to restrict the use and disclosure of information about recipients; conducts the universal engagement procedures (see section 201); and provides equitable access to Indians. The state



must also provide information describing state programs to include, for each TANF- or MOE-funded programs: its name; goals; the benefits and services provided; principal eligibility rules (financial and nonfinancial) and populations serviced under the program. For programs providing assistance, the plan must also include information about applicable work requirements, required individual responsibility plans, time limits, and sanction policies.

In addition, the plan must indicate whether the state intends to aid legal immigrants and set forth objective criteria for benefit delivery and for fair and equitable treatment. In the plan the state must certify that it: operates a child support enforcement program; operates a foster care and adoption assistance program; has established standards against program fraud and abuse; has procedures to ensure that any child care provider delivering child care services funded by TANF complies with the health and safety requirements applicable to the Child Care and Development Block Grant; and has consulted with Indian tribes in the state (with the exception of Alaska). In addition, the state may opt to certify that it has established and is enforcing procedures to screen and identify recipients with a history of domestic violence, to refer them to services, and to waive program rules for some of them. States which provide transportation aid through TANF must certify that the transportation agencies and planning bodies have been consulted in the development of the plan; similarly, states which provide housing aid through TANF must also certify that local housing authorities have been consulted in the development of the plan. The plan must specify which state agency or agencies will administer and supervise TANF. Prior to submitting a plan to HHS, the state shall make the proposed plan available to the public through a state web site or other appropriate means. At least 45 days shall be allowed for public comment. After submission to HHS, the state shall make the plan available to the public through a state web site or other appropriate means.

The mark includes a provision clarifying that no individual or private right of action shall be conferred solely by the contents of a state plan.

The Secretary of HHS, after notice and public comment, is required to develop and promulgate a standard state plan form. The standardized form shall be finalized not later than February 1, 2003, and shall be used by the states beginning in FY2004.

## **Section 703 – Research**

### ***Current Law***

The Secretary of HHS is required to conduct research on effects, costs, and benefits of state programs. The law also provides that the Secretary may help states develop innovative approaches to employing TANF recipients and shall evaluate them. PRWORA also appropriated \$15 million yearly, half for TANF research and novel approaches cited above and half for state-initiated TANF studies and completing pre-TANF waiver projects. In addition, under PRWORA, the Census Bureau was provided \$10 million per year to continue information collection for panels of the Survey of Income and Program Participation to provide information on the status of low-income people during the course of welfare reform.

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

The mark includes research funding as part of the main TANF block grant, as a reservation of funds to HHS, rather than as a separate appropriation. The mark funds an effort to assess child well-being at a state level. An advisory panel will be appointed to make

recommendations about appropriate measures and statistical tools to provide them. The measures are to be statistical indicators, including measures of family structure, educational attainment, health status, and child development. Members of the advisory panel are to be nominated by the Secretary of HHS, the Chairman and Ranking Member of the Senate Finance and House Ways and Means Committees. For the child well-being assessment, \$15 million per year is reserved (replacing the \$10 million in Census funding) to the Secretary of HHS.

In addition, \$20 million per year is reserved for HHS to conduct welfare reform research. With these funds, HHS is required to support: (1) longitudinal studies of TANF applicants and recipients in 10 states to determine the factors that contribute to positive employment and family outcomes; (2) a random assignment study comparing the effects of full-family sanctions, partial sanctions, and other policies for increasing engagement in work activities. The study is to include information on participation rates, employment and earnings, duration and amount of welfare payments, family income, and the well-being of children; (3) a study of a representative sample of teen parent TANF recipients to determine whether state data on the number of such recipients is accurate, including an examination of the extent to which such recipients are members of families are not reflected in the officially reported data. The study should also determine what assessment procedures are utilized with such recipients and whether they would detect an educational barrier, such as a learning disability, and the services and eligibility rules for such recipients. Reports for (2) and (3) are due to Congress on December 31, 2006. Of the total provided, \$2 million is reserved for research on tribal welfare programs and on efforts to reduce poverty among American Indians in general.

#### **Section 704 - Business link partnership grants**

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

The law appropriated an annual average of \$200 million (a total of \$1 billion over 5 years, FY1999-FY2003) for bonuses to "high performing" states, defined as ones whose performance score in achieving TANF goals at least equals a threshold set for that year by the Secretary. State performance is measured by a formula developed by the Secretary in consultation with the National Governors Association and the American Public Human Services Association.

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

The mark repeals the current high performance bonus, replacing it with a \$200 million annual competitive grant program called Business Link Partnership for Employers and Nonprofit Organizations. Grants are to be awarded jointly by the Departments of Labor and HHS to nonprofit groups, local workforce investment boards, localities, or tribes to provide for:

- (1) Creation or expansion of programs designed to partner with employers to improve wages of low-income persons, though improving job skills and providing supports for low-income workers and those with disabilities.
- (2) Creation or expansion of temporary wage-paying supported work – or "transitional jobs" – programs, which are for low-income individuals unable to secure work through job search or other employment-related services because of limited skills, experience, or other work barriers.
- (3) Capitalization approaches to non-profit social service delivery.

At least 40% of the funding each year is to be used each for (1) and (2). Those eligible for services under (A) and (B) are TANF parents, former TANF parents, and non-custodial parents who are unemployed or having difficulty in paying child support obligations.

#### **Section 705 - Transportation program**

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

No provision.

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

The mark creates a competitive grant program to create or expand programs to improve access to dependable automobiles, such as programs that assist low-income families with the purchase or maintenance of vehicles or insurance of vehicles. Eligible applicants are states, localities, and non-profit organizations. The mark authorizes \$15 million per year for FY2004-FY2007.

#### **Section 706 - At-home infant care**

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

No provision.

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

The mark provides funding for demonstration grants to at least 5 and up to 10 states to conduct "at-home infant care" programs, under which mothers provide infant care themselves in situations where infant care is difficult to obtain, such as remote rural areas or if a child has a disability. Benefits provided cannot exceed the applicable payment rate for providers of infant care for children under the state child care program. Participation is limited to those with a child under two and a recent work history. An evaluation is required to assess the cost effectiveness of this approach and the impact on child development. The mark provides \$30 million per year for FY2003-FY2007.

#### **Section 707 - Housing with services for families with multiple barriers to work**

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

No provision.

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

The mark establishes competitive grants to be jointly awarded by the Secretaries of HHS and HUD to non-profit organizations for demonstration projects to test different models for providing housing and services for TANF recipients who have multiple barriers to work. The mark authorizes \$50 million in funding for FY2004.

## **Section 708 – Transitional compliance for teen parents**

### ***Current Law***

States are prohibited from providing TANF-funded assistance to unwed parents under age 18 and their children unless they live the home of an adult relative or another adult-supervised arrangement (such as a “second-chance” home).

### ***Chairman’s Mark***

The mark allows states the option to provide assistance for teen parents for up to 60 days while aiding the parent in coming into compliance with the requirement that teen parents live in adult-supervised settings. In addition, transitional living youth projects, funded by the Runaway and Homeless Youth program, are added as an acceptable form of adult-supervised residential setting.

## **Section 709 - TANF/WIA**

### ***Current Law***

The Workforce Investment Act (WIA) requires each local Workforce Investment Board to develop a “one-stop” system to provide employment services. Some programs are required to be partners in the one-stop system. TANF is an optional partner. Partners must enter into written agreements with local boards regarding services to be provided, funding, and methods of referring individuals among the partners.

### ***Chairman’s Mark***

The mark requires TANF programs to be partners in the WIA one-stop system unless the state opts out of the requirement.

## **Section 710 - Advanced planning documents**

### ***Current Law***

No provision.

### ***Chairman’s Mark***

The mark requires that, within one year of enactment, the Secretaries of the Department of Health and Human Services, Agriculture, Labor, Education and other federal agencies, in consultation with the National Governors Association, the National Conference of State Legislatures, and the American Public Human Services Association, submit to Congress a report reviewing and making recommendations for improvement in the federal laws and regulations governing the approval of human service information systems. The report is to review the Advanced Planning Documents (APD) process; consider the development of a single approval process for multi-program information system procurement and administration; improve the current federal cost allocation requirements; and consider allowing state procurement standards that meet or exceed federal standards to be sufficient

## **Section 711 - Pre-existing welfare waivers**

### ***Current Law***

Before the enactment of the 1996 welfare reform law, states applied for and received waivers of federal requirements of the Aid to Families with Dependent Children (AFDC) program. TANF permitted waivers in effect on date of enactment of TANF to continue until their scheduled expiration, unless the state chooses to end them early. This permitted a state to continue its waiver policies even if they were inconsistent with TANF requirements until the expiration of the waiver. No extensions of pre-1996 waivers are permitted.

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

The mark permits states with waivers set to expire after on or after October 1, 2002 to continue them through the end of FY2007, provided that they comply with the TANF "universal engagement" requirement (as described in Section 201).

## **Section 712 - Anti-discrimination**

### ***Current Law***

A TANF 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 shall 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 of its workforce in order to fill the vacancy so created with a TANF recipient. These provisions shall not preempt or supersede 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.

Any program or activities provided under TANF shall comply with the Age Discrimination Act of 1975; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and Title VI of the Civil Rights Act of 1964.

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

The mark provides that a TANF recipient cannot displace any employee by either filling an unfilled vacancy or resulting in a reduction in hours, wages or employee benefits of an employee, or by performing work while an employee is on layoff from a job or substantially equal position. It requires states to have a grievance procedure to resolve complaints of displacement, including the opportunity for a hearing. It provides that the remedies of a violation of the non-displacement requirement include termination or suspension of payments, prohibition of the placement of the participant, reinstatement of the employee, or other relief to make the aggrieved employee whole. The provisions do not preempt or supercede any local law providing greater protection from displacement. In addition, no funds provided under TANF are to be used to assist, promote, or deter organizing for purposes of collective bargaining. The mark applies worker protection laws, including but not limited to, the Fair Labor Standards Act, Occupational Safety and Health Act, and Title VII of the Civil Rights Act to recipients of TANF engaged in work activities in the same manner as they apply to other workers.

**"Work, Opportunity, and Responsibility for Kids (WORK) Act of 2002"  
Modifications to the Chairman's Mark**

Scheduled for Markup  
By the  
SENATE COMMITTEE ON FINANCE  
on June 26, 2002

June 26, 2002

## **Section 102 - Contingency fund**

The mark is modified so that to qualify for the contingency fund a state must have an unexpended balance of lower than 30% of the TANF funding it has received. Qualifying states would receive funds on the basis of an estimate of 100% of the costs of the rise in the TANF caseload, reimbursed at the higher of 60% or the state's Federal Medicaid Assistance Percentage (FMAP) rate. The reimbursement calculation does not include the first 4% of state's caseload increase and a state cannot receive an amount larger than 10% of its TANF allocation from the contingency fund in a single year.

## **Section 103 - Child care**

The mark is clarified to provide that additional child care funds above the FY 2002 level shall not supplant state spending on child care. (Bingaman Amendment #6.)

## **Section 201 - Universal engagement**

The mark is modified to require states to review Individual Responsibility Plans prior to imposing a sanction. (Kerry Amendment #1.)

## **Section 202 - Work participation rates**

### *Employment Credit*

The mark is modified to allow states to retroactively remove from the participation rate calculations those TANF families who leave the rolls for SSI.

## **Section 302 - Teen pregnancy prevention**

The mark is clarified so that the national teen pregnancy prevention resource center is not a part of the abstinence education program funded in the rest of section 302.

## **Section 303 - Responsible Fatherhood**

The mark is clarified to authorize that employment programs for non-custodial parents to assist them in meeting child support obligations may be "court-supervised" or "administered by the child support agency."

## **Section 502 - Mandatory review and adjustment**

The mark is modified so that states are only required to review and adjust child support orders for TANF and former TANF recipients every three years, or at the request of either parent or the state child support agency (in the case of a TANF family).

## **Section 505 - Financing and administrative review; Improvement of interstate child support**

The mark is modified to include a requirement that states update their child support guidelines based on the 2001 Uniform Family Support Act. (Rockefeller Amendment #5.)

### **Section 702 - State plans**

The mark is modified to require public comment periods before submission of state TANF plans when they are amended to reflect policy changes. In addition, the mark is modified to require states to provide information on the complaints they have received about fair and equitable treatment. (From Bingaman Amendment #4.)

### **Section 705 - Transportation program**

The mark is clarified to include Indian tribes as eligible grant recipients.

### **Section 706 - At-home infant care**

The mark is clarified to include Indian tribes as eligible grant recipients.

### **Section 712 - Anti-Discrimination**

The mark is modified to ban states from implementing stricter eligibility rules for 2-parent families. (Rockefeller Amendment #4.)



### Preliminary and Subject to Change

#### Preliminary CBO Estimate of the Direct Spending and Revenue Effects of The Work Opportunity, Responsibility, and Kids Act of 2002, Chairman's Mark

Based on document dated June 26, 2002 and Clarifications by Staff

(by fiscal year, in millions of dollars)	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2003-2007	2003-2012
<b>Title I: Funding</b>												
Budget Authority	1,524	1,524	1,524	1,774	1,774	524	524	524	524	524	8,121	10,741
Outlays	761	1,083	1,408	1,754	1,867	1,105	906	688	611	537	6,885	10,712
<b>Title II: Work</b>												
Budget Authority	120	0	0	0	0	0	0	0	0	0	120	120
Outlays	6	24	30	30	24	6	0	0	0	0	114	120
<b>Title III: Family Promotion and Support</b>												
Budget Authority	105	105	105	105	105	-100	-100	-100	-100	-100	525	25
Outlays	12	50	130	150	133	12	-69	-83	-100	-100	475	125
<b>Title IV: Health Coverage</b>												
Budget Authority												
Outlays												
<b>NOT YET ESTIMATED</b>												
<b>Title V: Child Support and Child Welfare</b>												
Budget Authority	137	99	141	174	288	316	332	343	361	374	850	2,576
Outlays	78	108	147	195	321	303	334	349	366	377	848	2,576
<b>Title VI: Tribal Issues</b>												
Budget Authority	114	49	59	69	80	82	84	87	89	92	371	805
Outlays	42	71	81	79	83	82	84	86	89	91	355	788
<b>Title VII: Innovation, Flexibility, and Accountability</b>												
Budget Authority	240	40	40	40	40	40	40	40	40	40	400	600
Outlays	18	142	164	128	56	-27	5	40	40	40	458	556
<b>Interactions</b>												
Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Outlays	0	0	0	-23	-34	39	19	0	0	0	-58	0
<b>Total Direct Spending</b>												
Budget Authority	2,241	1,817	1,889	2,162	2,297	862	880	894	915	930	10,386	14,867
Outlays	917	1,486	1,961	2,313	2,400	1,519	1,279	1,051	1,006	845	9,077	14,877
<b>Revenue</b>												
Budget Authority	0	0	-2	-6	-12	-15	-17	-20	-20	-21	-20	-113

/a less than \$50 million.  
Note: Details may not add to totals due to rounding.

Date: 6/27/2002 3:28 PM

Sender: Carla Martin

To: #All Staff (Dem-Rep); Brad Cannon; Richard Chriss; Carrie Clark; Hope Cooper; Faith Cristol; Kolan Davis; John Drake; Everett Eissenstat; Linda Fishman; Jill Gerber; Dennis Holley; Diann Howland; Leah Kegler; Robert Kerr; Jill Kozeny; Ed McClellan; Tiffany McCullen; Christy Mistr; Elizabeth Paris; Mark Prater; Rebecca Reisinger; Steve Robinson; Colin Roskey; Leah Shimp; Ted Totman; Ed Wallace; Tom Walsh; Dean Zerbe; Alicia Ziemiecki

Priority: Normal

Subject: Results of Markup.

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Results of Markup

Wednesday, June 26, 2002

A substitute for H.R. 4737, entitled, "The Work, Opportunity and Responsibility for Kids (WORK) Act of 2002," was ordered favorably reported by roll call vote, 13 ayes, 8 nays.

Ayes: Baucus, Rockefeller, Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry (proxy), Torricelli (proxy), Lincoln, Hatch, Murkowski (proxy), and Snowe.

Nays: Daschle (proxy), Grassley, Nickles (proxy), Gramm (proxy), Lott (proxy), Thompson (proxy), Kyl, Thomas (proxy)

The following amendments were offered:

Amendment #11 (Graham # 3), Agreed to by roll call vote, 12 ayes 9 nays.

Ayes: Rockefeller, Daschle (proxy), Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry, Torricelli (proxy), Lincoln, Murkowski, Snowe

Nays: Baucus, Grassley, Hatch, Nickles, Gramm (proxy), Lott, Thompson (proxy), Kyl, Thomas (proxy)

Amendment #26 (Snowe #1), approved by voice vote

Amendment #4 (Rockefeller #2), approved by unanimous voice vote.

Amendment #13 (Conrad #1), approved by unanimous voice vote.

Amendment #27 (Kyl #1), Failed by roll call vote, 8 ayes, 12 nays

Ayes: Daschle (proxy), Graham, Jeffords, Bingaman, Kerry (proxy), Torricelli (proxy), Snowe, Kyl

Nays: Baucus, Rockefeller, Breaux, Conrad, Lincoln, Grassley, Hatch, Murkowski (proxy), Nickles (proxy), Lott (proxy), Thompson (proxy), Thomas (proxy),

Present: Gramm (proxy).

Amendment #17 (Bingaman #3), accepted without objection

Amendment #22 (Bingaman #8), Approved by roll call vote, 13 ayes, 8 nays.

Ayes: Rockefeller, Daschle (proxy), Breaux, Conrad, Graham, Jeffords, Bingaman, Kerry (proxy), Torricelli (proxy), Lincoln, Murkowski, Snowe, Kyl (proxy).

Nays: Baucus, Grassley, Hatch, Nickles (proxy), Gramm (proxy), Lott (proxy), Thompson (proxy), Thomas (proxy).

Amendment #2 (Baucus #2), approved by voice vote.

GRAHAM AMENDMENT #3 TO TANF REAUTHORIZATION MARK

11

COMMITTEE ON FINANCE

Graham Amendment #3 to TANF Reauthorization Mark

One sentence description of Amendment: This amendment would give states the flexibility to use federal Medicaid and SCHIP dollars to cover eligible legal immigrant children and pregnant women immediately.

Text of Amendment: The Graham amendment (S.582) 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 women and child resident aliens 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 aliens for federal Medicaid and SCHIP.

Offset: Senator Graham will extend Social Security Administration pre-effectuation review provisions, at a phase-in rate of 25% the first year and 50% thereafter, for such time as is necessary to offset this expenditure, but not to exceed ten years.

Contact name and phone number: Jocelyn Moore, (202) 224-1546

June 25, 2002

26

Committee on Finance

June 26, 2002

Snowe Amendment #1

(cosponsored by: Jeffords, Bingaman and Rockefeller)

Current Law:

Since 1996, TANF dollars can only be spent on benefits for people who are complying with the federally mandated work requirements and who have not hit the federal benefits time limit of 60 months (5 years). Under current law, only one year of vocational education is permitted for a limited percentage of a state's welfare caseload.

The Amendment:

The amendment would allow those states that choose to, to count post secondary and vocational education as an "approved work activity" which then means that those people who are participating in post-secondary education would be eligible for cash assistance, child care subsidies, transportation subsidies, etc., paid for with federal TANF dollars.

This amendment would allow those who are participating in post-secondary or vocational education to count towards the state's work requirements and participation rates. Participation in these educational programs is capped at 10 percent of a state's caseload.

**The amendment expressly prohibits the use of TANF dollars to pay for tuition.**

Staff Contact:

Carolyn Holmes, 4-8665

4

COMMITTEE ON FINANCE

Rockefeller Amendment # 2 to WORK Act – Social Services Block Grant Funding  
Cosponsors: Breau

**Funding of the Social Service Block Grant (SSBG) increased by \$252 million to \$1.952 billion in FY 2005**

The Social Service Block Grant would be funded as follows:  
FY2005        \$1.952 billion

States would have the ability to transfer up to 10% of their TANF funding into the Social Services Block Grant.

*Offset:* Require SSA reviews of SSI determinations for individuals who have attained the age of 18. This is Section 601 of H.R. 4737, and it saves \$252 million over 5 years.  
Rescind just enough of the Illegitimacy Bonus for 2002 to cover the SSBG transfer costs.

*Rationale:* The CARE Act which was adopted by the Finance Committee on June 18, 2002 includes \$1.975 billion in FY03, and \$2.8 billion in FY04. Funding in FY05 is cut to \$1.7 billion.

Funding of the SSBG program is a fundamental part of welfare reform. It was part of the tripartisan principles submitted to Chairman Baucus and Senator Grassley. The CARE Act is intended to provide funding for the 2003, and 2004, but States need a long term commitment to increase funding of the Social Services Block Grant.

The Bush Administration has proposed eliminating the Illegitimacy Bonus. The bonus would only help a few states, and the SSBG transfer would provide flexibility to every state.

Contact name and phone number: Barbara Pryor at 224-2578

13

COMMITTEE ON FINANCE

Conrad Amendment # 1 to H.R. 4737

This amendment would provide states the flexibility to exempt a certain percentage of caretakers of family members with disabilities from the TANF work requirements.

Text of Amendment: States would have the option of exempting full-time caregivers of a family member with a disability from the work requirements and removing them from the denominator in calculating work participation rates. States may exempt no more than 10 percent of their caseload. In calculating the 10 percent, States may use either the current year or prior year average caseload. A recipient is eligible for the exemption only if all of the following apply:

- (1) the recipient is the only able-bodied adult in the case;
- (2) the recipient is the primary caregiver for a child with a physical or mental disability or chronic illness, or another family member with a physical or mental disability or chronic illness;
- (3) the demands of caregiving do not allow the caregiver to obtain or retain employment of at least 30 hours per week; and
- (4) the need to provide caregiving is specified in the recipient's Individualized Responsibility Plan and reviewed on at least an annual basis.

Contact name and phone number: Neleen Eisinger, 4-7966

Bingaman Amendment to the WORK Act #3

17

**Sponsor:** Senator Bingaman

**Purpose:** To provide flexibility to states to implement innovative welfare reform programs that best respond to the characteristics of their TANF caseloads, and labor market conditions within the state.

**Background:** Many states operating under waivers since 1996 have implemented innovative welfare reform programs that have been highly successful, and that have allowed those states to tailor their welfare reform programs to met the needs of participants and employers. Other states should be provided with the option to seek a waiver to implement these proven strategies.

**Text of the Amendment:** Any state may submit a waiver application on terms similar or identical to states that are successfully implementing innovative programs under waivers and the Secretary shall approve the application. A waiver granted under this provision shall be in effect no longer than 4 years. At the end of the waiver period, the Secretary shall evaluate the effectiveness of the waiver and may extend the waiver if this evaluation demonstrates that the program has been effective.

**Text of the Amendment:** Any state may submit a waiver application on terms similar or identical to states that are successfully implementing innovative programs under waivers and the Secretary shall approve the application. A waiver granted under this provision shall be in effect no longer than 4 years. At the end of the waiver period, the Secretary shall review documentation of the effectiveness of the waiver provided by the state and may extend the waiver if this documentation provided adequately demonstrates that the program has been effective.

**Bingaman Amendment to WORK Act -- #8**

**Sponsor:** Sen. Bingaman

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

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

There would be no federal cost associated with this amendment.

**Background:** A provision in PRWORA has been read by state and local governments with varying interpretations. State and local jurisdictions across the nation have largely ignored the provision while a few, such as the University of New Mexico Hospital, have read it to require states to have to pass new legislation authorizing state and local expenditures on non-qualified immigrants for non-emergency care services.

Many constitutional scholars believe this small provision is unconstitutional and would not withstand a 10<sup>th</sup> Amendment challenge, as it interferes in state and local governments' authority to spend their own revenues as they see fit. Can the federal government and senators from one state tell the state and local officials in another state if and how it can spend its own revenue?

It also imposes new and unnecessary legal and administrative costs on state and local governments despite the provision having no enforcement mechanism.

In addition, the current provision creates a double-standard by which none of the major federal public health programs have to screen out non-qualified immigrants, but state and local governments would have to pass affirmative laws to provide exactly the same services with their own revenue. Services provided through the National Breast and Cervical Cancer Early Detection program, for example, are exempt from screening for non-qualified immigrants, but identical services provided by state and local governments might require such a screening.

State and local governments, far more often than the federal government, establish broad population-focused, public health programs. Public health experts would prefer to be free from restrictions on their ability to provide health care to all truly needy residents, regardless of immigration status just as they currently are for all major federal public health programs. Moreover, failing to treat serious, non-emergency medical conditions like asthma and diabetes results in both a human and a fiscal toll for local governments as untreated conditions lead to emergency care and higher costs.

In the case of the University of New Mexico, the denial of non-emergency care treatment has resulted in two high-profile cases on one man dying that was seeking dialysis and another 2 year-old child that ended up with emergency surgery at another non-profit hospital in the region.



COMMITTEE ON FINANCE  
AMENDMENT

2

Baucus Amendment #2 to Chairman's Mark for H.R. 4737:

Description of Amendment: Provides \$50 million per year for FY2003-07 for "abstinence-first" teen pregnancy prevention programs.

Text of Amendment: Amends Section 302 of the Chairman's mark to add the following:

The mark provides \$250 million within the Maternal and Child Health Block Grant (\$50 million each year for FY2003-07) for grants to states to implement proven "abstinence-first" teen pregnancy prevention strategies. "Abstinence-first" teen pregnancy prevention strategies: 1) use a message that strongly emphasizes abstinence as the only certain way to avoid pregnancy and sexually transmitted infections, while still allowing State flexibility to discuss other prevention methods; 2) replicate or substantially incorporate the elements of one or more teen pregnancy programs that have been proven (on the basis of rigorous scientific research) to delay or decrease sexual activity or reduce teen pregnancy.

Offset: Increases custom user fees by an amount necessary to cover the cost of this amendment.

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