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7/14/92

Please file for
Cam Findlay -

NAFTA

File

July 13, 1992

DRAFT 7/12

Not for distribution

MEMORANDUM FOR

FROM: NICHOLAS E. CALIO

SUBJECT: NAFTA Timing

Here are some factors, important from a congressional perspective, that I believe are worth taking into consideration in resolving the timing of a NAFTA deal.

Process

There are several events in the agreement process to which Congress will be paying attention, most of them governed by the fast-track statute.

- **Handshake.** This is the point at which negotiators agree all substantive issues are resolved. While the "handshake" point may not have formal status, this is the point at which we must begin selling the agreement to Members.
- **Initialling.** This is the point at which negotiators have agreed on a text, ad referendum.
- **Notification.** The fast-track statute requires that, at least 90 calendar days before an agreement may be signed, the President must formally notify Congress of his intent to enter into the agreement.
 - o The statute also requires that, at the time of notification, the President submit detailed reports from **advisory committees**. As a practical matter, most advisory committees are likely to insist on at least a week or two to review completed text before being willing to submit a report.
 - o Congress will object strenuously if completed text is not available at the time notification is given.
 - o Many Members will also object if the 90 days notice is given during a period when Congress will not be in session much.
- **Signing.** Under the current fast track statute, the President may sign an agreement anytime after the 90-day notification period has run, and before June 1, 1993.

- **Implementation.** As long as the agreement is signed by June 1, 1993, the President may submit implementing legislation to Congress anytime thereafter. Normally the implementing legislation is worked out with relevant committees before it is submitted.

Options

There are many options on timing of these various events, but most fall into the following categories:

1. **Initial and sign before election.** Complete the text in mid/late July; give notice before August 5; sign by November 3; begin work with committees on implementing legislation in January.
2. **Initial before election, sign during first term.** Complete the text sometime after July but before the election (e.g., September 1); give notice within a week or two (e.g., September 15); sign 90 days later (e.g., December 15); begin work with committees on implementing legislation in January.
3. **Initial before election, sign during second term.** Complete the text sometime after July but before the election (e.g., September 1); defer notice until early January; sign in early April; begin work with committees on implementing legislation in January.
4. **Everything after election.** Complete the text after the election (e.g., early December); give notice in early January; sign in early April; begin work with committees on implementing legislation in January.

Some Congressional factors

Note that the choice of timing options will have little effect on when implementing legislation actually comes to a vote in Congress. From the perspective of the best possible environment for getting a NAFTA through Congress, the later and less politicized a process the better.

- We have had many calls from congressional contacts urging that a deal not be announced during the Democratic convention, to avoid making the NAFTA partisan. (A deal this week does not, in any event, appear practically possible.)
- More broadly, our friends (Democrats and Republicans) argue for as much delay as possible, preferring that at least the formal notice to Congress be deferred until the convening of the next Congress.

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7/14/92

Please file for
Cam Findlay -
Welfare Reform



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 14, 1992

file in welfare reform

MEMORANDUM FOR CHIEF OF STAFF SKINNER
DIRECTOR DARMAN
SECRETARY YEUTTER

FROM: TOM SCULLY *T Scully*

SUBJECT: Quiet Formation of Working Groups to Reform
Targeted Urban Areas

The Welfare Reform Working Group has discussed the possibility that it quietly initiate efforts in four or five cities with cooperative Administrations to create task forces to streamline Federal urban aid program delivery. The group agreed that the concept be laid out in a memo.

We know of several local groups (such as President Carter's Atlanta group), who would like flexibility to make better use of Federal funds to serve inner city residents. In effect, these local groups are asking for waivers and flexibility that would be available to them under the Administration's "Community Opportunity Act." Prospects for that bill are nonexistent for this year. However, representatives of the Welfare Reform Working Group could start to work to promote local efforts in several cities with "safe" mayors by employing the considerable flexibility already available in the statutes of some Federal benefit and service programs.

The coordinated assistance provided by officials from HHS, HUD, Agriculture and other agencies would remain very low-key. Rather than seeking publicity at the beginning of a relatively small effort (with no certainty of success), it should begin without fanfare. However, by the Fall, the Administration could demonstrate ongoing relationships working with a variety of cities to streamline urban programs and to provide them with the flexibility they need. When the President is inevitably asked in the Fall what has been done to deal with urban problems, he can refer to these task forces. The services we might provide include:

- o helping clarify alternatives to current program rules (through making the results of other experience available and explaining the boundaries of current statutory authority);
- o promoting necessary liaison with State governments and guidance for revising the programs the locals would like to modify;

o advising and consulting on the development of necessary procedures to make program changes or to obtain demonstration waivers.

Groups of three or four Administration officials (at the Deputy Assistant or Assistant Secretary level) and White House and OMB staff would be assigned to work with local groups or municipal governments. For example, Gail Wilensky would lead a group of Dep. Asst. Secretaries from AG, HUD and HHS to work with Mayor Steve Bartlett to reform Dallas' approach to welfare program delivery; JoAnne Barnhart, HHS Assistant Secretary, might lead a similar effort with Indianapolis:

These four cities (3 with Republican mayors) would be the Working Group's initial targets:

Atlanta: Develop program further through President Carter.

Dallas: Mayor Steve Bartlett (R) is receptive.

Indianapolis: Mayor Steve Goldsmith (R) should be receptive.

Richmond: The city already has a strong public-private partnership "Richmond Renaissance" in place that would be very likely to facilitate waivers in new programs in the same way as the Atlanta project is doing. The Democratic Mayor, Walter Kenney, is very passive and is likely to be supportive.

Second tier options would be:

Cleveland: Mayor White (D) has a good relationship with us, and a very strong relationship with Gov. Voinovich.

Memphis: Mayor W.W. Harrington (D) has a good relationship with us and has a welfare waiver process under advanced development already.

We are planning to proceed in forming task forces to have quiet meetings with these cities in the next few weeks. Do you have any objections?

cc: Gail Wilensky
Carm Finley

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7/2/92

Please file for
Cam Findlay :

Iraq gate



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 22, 1992

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your May 15, and June 15, 1992, letters to the Attorney General.

As the Attorney General stated in his May 15 letter, the Administration will not provide further classified documents to you unless you provide assurances that you will handle them properly. We did not respond to your demand for examples of how your unauthorized disclosures of classified documents had harmed national security because the demand missed the point. If you thought that documents were either improperly classified or could now be declassified, the appropriate procedure would be to request declassification. I note that Congressman Gejdenson recently made such a request and the Administration promptly responded and declassified certain documents, including portions of a National Security Directive.

Congress has recognized the need to protect classified information by criminalizing its disclosure in various circumstances. See, e.g., 18 U.S.C. 798, 952; 50 U.S.C. 783(b). And the President has directed the proper procedures for handling and declassifying classified information. See Executive Order No. 12356. With all due respect, no member of Congress is authorized to declassify Executive Branch documents. We simply cannot provide classified documents where there has been a demonstrated unwillingness to handle them properly.

Your suggestions that the Department threatened to withhold documents from Congress and that the Department is engaged in obstruction of a Congressional investigation are incorrect. The Attorney General's letter made clear that we would continue to make classified documents available to you provided that we receive assurances that you would handle them properly. Moreover, simultaneously with the Attorney General's letter to

you, he wrote Speaker Foley to explain that even if we did not receive such assurances from you we would make any relevant classified documents available to him or to such other Committees or Members whom he might designate.

We remain ready to make classified documents available to you if you agree to handle them properly. Failing such an assurance, we similarly remain ready to make the documents available to others in Congress who will handle them properly.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Lee Rawls". The signature is fluid and cursive, with the first name "W." and last name "Rawls" clearly distinguishable.

W. Lee Rawls
Assistant Attorney General

cc: Honorable Thomas Foley
Honorable Chalmers Wylie
Honorable Robert Michel

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6/29/92

Please file for
Cam Findlay -

Welfare Reform

June 25, 1992

file:
welfare
reform

WAIVER TRACKING SHEETS

Highlights:

- * The last apparent cost-neutrality issues related to waiver requests for New Jersey and California have been resolved in OMB. HHS/ACF is on schedule to produce final terms of approval by next Thursday for both States.
- * Terms for approval of Maryland's waivers are being sent to Sec Sullivan for signature.
- * This week, a number of States have been dropped from the waiver tracking sheet. In most cases, State legislatures considering welfare reform proposals have adjourned without passing them.

June 25, 1992

WELFARE WAIVER TRACKING SHEET

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
California	AFDC benefits reduced 10 percent across the board, another 15 percent after a family has been on the rolls 6 months; new arrivals receive benefits at the level of States they left for one year; no additional benefits for children born to mothers on the rolls; minor mothers must live with parents, are rewarded for staying in school, face penalty from dropping out; disregard one-third of earnings permanently; eliminate 100 hour rule for two-parent families. Some interest in Medicaid expansions for children.	HHS/ACF HHS/HCFA	5/20	HHS staff met with State staff 6/25 on remaining evaluation issues. State now appears to want quick approval.
Colorado (Weld County)	Substitute jobs program for AFDC; jobs subsidized with AFDC funds.	HHS/ACF	3/91	Recent interest by Sen Brown in a dormant application. Gov does not support the proposal and recently vetoed legislation authorizing the demonstration.
Maryland	Require immunization of children and school attendance through use of "special needs" payments for compliance.	HHS/ACF	5/22	Terms for approval of the State's waivers are being sent to Sec Sullivan for signature.
New Jersey	Benefits would not increase automatically for mothers on AFDC who have another child, however, they would be eligible for higher earnings disregards that would permit them to keep more of their AFDC as their earnings rise; step-parent income deeming liberalized; eliminate 100-hour rule for AFDC-UP fathers; extend transitional Medicaid to two years.	HHS/ACF HHS/HCFA	4/13	Terms for approval of the State's waivers have been drafted. There appear to be no serious outstanding issues.
Oregon - Medicaid	Medicaid waivers part of broader health access and cost containment proposal. Medicaid would be extended to all below poverty, but only a standard package.	HHS/HCFA	8/91	HIMD/HFB analysis of demonstration costs submitted to PAD.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Virginia	Prioritize JOBS participants for child support enforcement. Extended transitional Medicaid benefits for those leaving AFDC due to child support.	HHS/ACF HHS/HCFA	8/91	Waiver request considered originally under a competitive child support research process. State now requests it be handled in welfare reform waiver review process.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
EXPECTED				
Florida	Medicaid: Expansion of eligibility to permit Medicaid buy-in as part of broader access effort including small business and other pooled purchasing arrangements; managed care for Medicaid and Medicare recipients; single payor demonstration; voluntary price controls and admin savings measures. In addition, a wide range of AFDC "new paternalism" proposals are before the State legislature.	HHS/ACF HHS/HCFA	Not received yet.	State legislature adjourned without passing any AFDC reform bills.
Georgia - State agency bill	Require child immunization as a condition of AFDC eligibility; require participation in apprenticeship programs for dependent children 16 and older not in school.	HHS/ACF	Not received yet.	The legislature passed, and the Gov signed, a bill mandating these reforms. Provisions not effective until 1/96.
Georgia - Carter	Unclear		Not received yet.	Former President Carter met with President Bush to discuss a Carter Center project in connection with the 94 Olympics in Atlanta. Welfare waivers were mentioned, but details are not available.
Iowa	Expand AFDC self-employment demonstration, provide grants to counties for local welfare reform initiatives; disregard income of new step-parents for one year; \$100 bonuses for AFDC recipients who complete high-school or GED; learnfare; cap on benefits for children born to parents on AFDC.	HHS/ACF	Not received yet.	Bills before the State legislature.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Maine	Benefits would not increase automatically for mothers on AFDC who have another child while on the rolls; new residents receive AFDC at lower levels; reduce amount of disregarded income.	HHS/ACF	Not received yet.	HHS/ACF held a conference call 6/15 to provide State with technical assistance on application development. State planning appears to still be in very early stages.
Michigan	Earnings incentives, including higher disregard, elimination of AFDC-UP 100-hour rule and work attachment test; 100 percent participation requirement for non-exempt AFDC adults; increased child support enforcement; wide range of service changes.	HHS/ACF HHS/HCFE	Not yet received.	A conference call among HHS and OMB staff and State officials was held 6/12. State advanced a very weak evaluation and cost-neutrality design.
Missouri	Require school attendance by teen parents and dependent children 13-15 years old.	HHS/ACF	Not received yet.	HHS staff met with Missouri staff about the State's learnfare proposal. Target for implementation is beginning of next school year.
Ohio	Monthly bonus payment for unmarried AFDC mothers with paternity established. One time bonus for timely paternity establishment.	HHS/ACF	Not received yet.	Letter to Sec Sullivan from Gov outlining proposal and stating intent to submit waiver application.
Oklahoma	Require or provide incentive for dependent children to stay in school.	HHS/ACF	Not received yet.	Legislature passed bill to lower JOBS participation mandate to age 13, and require dependent children older than 12 to attend school.
Oregon - work program	State referendum called for conversion of AFDC, food stamps, and unemployment compensation into single jobs program.	HHS/ACF HHS/HCFE USDA/FNS	Not received yet.	Oregon proponents and their consultant met separately with HHS and OMB officials to discuss current status of referendum implementation. Gov does not want to go ahead, advocates have brought suit.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Utah	Grants would be lowered and termed "child support assurance," differential would be restored for participation in JOBS education and training activities; AFDC-UP attachment to work force rule would be liberalized.	HHS/ACF	Not received yet.	HHS staff have discussed evaluation issues in connection with State's draft proposal. A waiver application is expected soon.
Vermont	AFDC: All child support payments go directly to AFDC family; target child support enforcement; waive rule that families are not eligible for AFDC-UP if father works more than 100 hours per month; workfare for all AFDC-UP fathers on the rolls more than one year; increase maximum earnings disregarded in calculating benefits; cash incentives to participate in parenting classes, carry out specific responsibilities; possibly workfare for all AFDC adults after a certain period on the rolls. Food Stamps: Disregard first \$50 in child support (like AFDC); liberalize maximum auto value; cash-out benefits to working poor; implement EBT.	HHS/ACF USDA/FNS	Not received yet.	HHS regional office provided State with waiver application kit. Waivers would not be implemented before FY93-4.
Wisconsin	For the first six months after they arrive in Wisconsin, limit AFDC payments for newcomers to the level of State from which they migrated.	HHS/ACF	Not received yet.	A draft waiver application was provided to HHS 6/12 for early consultation. A final waiver package is expected next week.

The three largest means-tested federal programs are Medicaid, the Food Stamp Program (FSP), and Aid to Families with Dependent Children (AFDC). Those who receive assistance from these programs are the focus of the welfare reform effort. Each is growing rapidly.

Federal Funding (in millions)

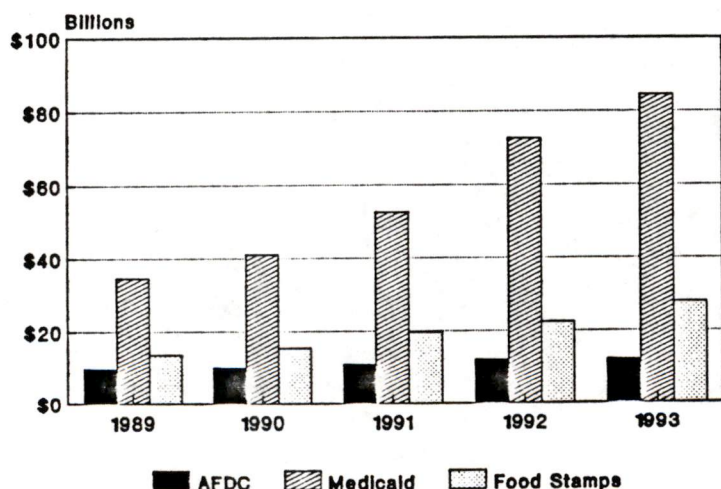
	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u> <u>(est)</u>	<u>1993</u> <u>(est)</u>	<u>Fed-State</u> <u>Combined '9</u>
<u>AFDC</u>	\$9,402	\$10,026	\$11,078	\$12,242	\$12,228	\$22,415
<u>Medicaid</u>	\$34,604	\$41,103	\$52,532	\$72,503	\$84,401	\$140,896
<u>FSP</u>	\$13,768	\$15,527	\$19,587	\$22,350	\$28,000	\$28,000

Participants

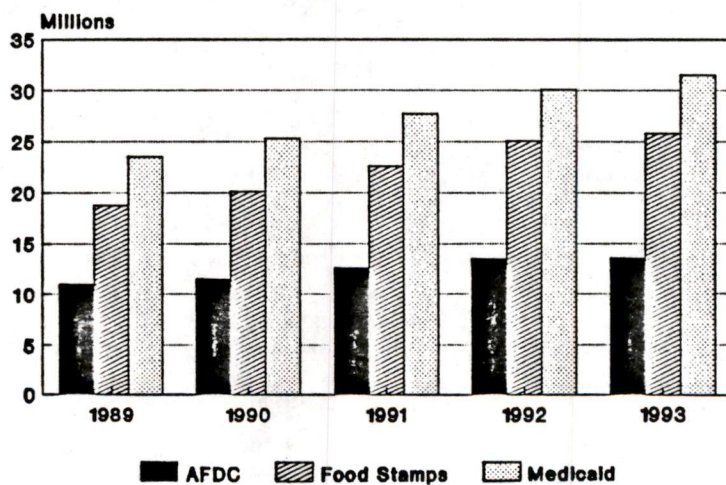
AFDC 13,649,000 FSP 25,042,000 Medicaid 28,241,000

AFDC and Food Stamps participants as of 1992; Medicaid as of 1991

Federal Funding of Welfare Programs



Growth in Welfare Recipients



Numbers are estimates for 1992 and 1993 and Medicaid 1991

AFDC provides cash assistance to children and adults who are in need; Food Stamps provides vouchers that can be used to purchase food; Medicaid pays for medical assistance. The programs have significant overlap. All AFDC recipients are

eligible for Medicaid; 85.2 percent of AFDC families receive Food Stamps. Beyond this inner core of welfare programs exists more than a hundred other federal programs targeted to the poor. Among AFDC recipients, 9.6 percent live in public housing. All AFDC children are eligible to participate in Head Start before they start school. Once in school, the federal school lunch program provides free or subsidized school lunches. During the summer, older poor children are eligible for the summer youth employment program. Another initiative that would help people who wanted to leave welfare programs is the President's Health Care Reform Proposal. As the following chart shows, over 48 percent of persons leaving the Medicaid program still do not have health insurance 12 months later.

Table P. Health Insurance Status 12 Months After Leaving the Medicaid Program, by Sex: 1985 SIPP Panel
(Numbers in thousands. Persons 15 to 64 years old)

Characteristic	Total		Health insurance status			
			Covered			Not covered
	Number	Percent	Total	Government	Private	
All persons	4,337	100.0	51.9	4.9	47.0	48.1
Males	1,911	100.0	51.9	5.2	46.7	48.1
Females	2,426	100.0	51.9	4.6	47.3	48.1

The President's health care reform package would help to remedy this situation by providing transferable tax credits and deductions for affordable health care coverage to moderate and low-income families.

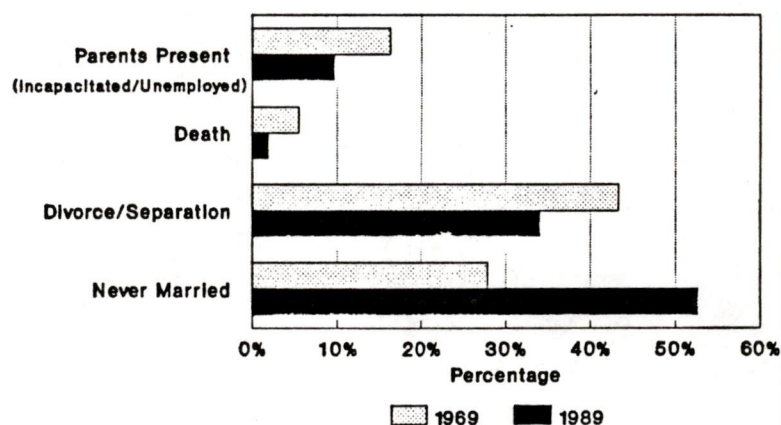
Who gets welfare?

AFDC gives cash assistance to families and children with

income and assets below specified levels when a parent, usually the father, is absent or incapacitated. Each state sets the income level at which people begin to receive AFDC benefits as well as the overall level of benefits.

The absence of two parents because of divorce, separation, or never marrying together provide the basis of eligibility for more than 85 percent of families that receive AFDC.

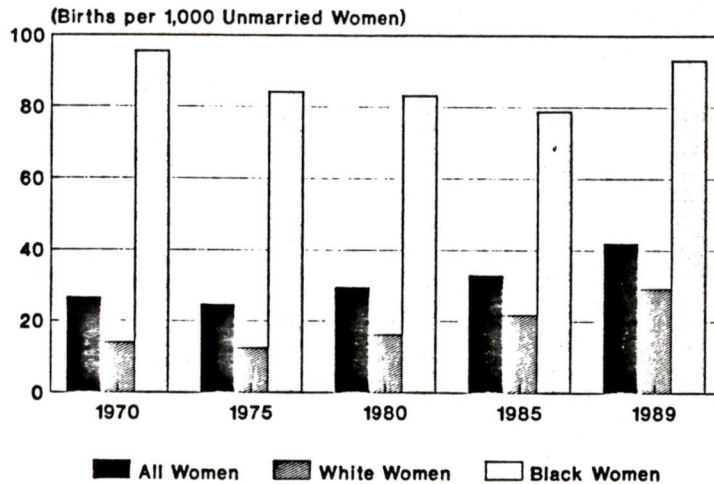
AFDC Recipient Characteristics Reason for Receipt



The proportion due to out-of-wedlock births has almost doubled since 1969.

The rising share of AFDC households headed by never-married parents follows the demographic trend toward a higher proportion of children being born outside of marriage.

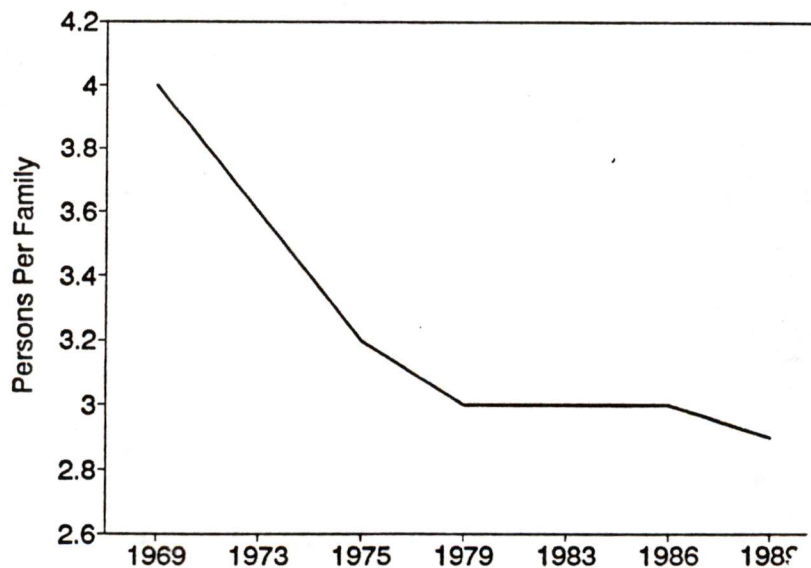
Children Born Out-of-Wedlock



Growth in the proportion of never-married AFDC parents compared to divorced or separated parents has produced a decline in the average size of an AFDC household.

AFDC Recipient Characteristics

Average Family Size

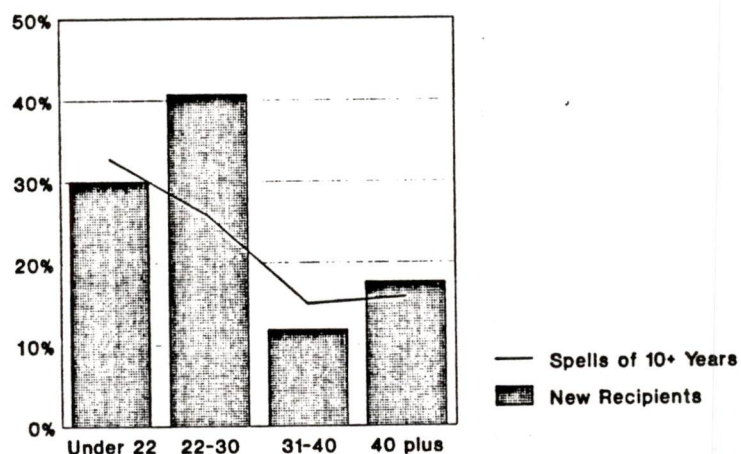


Teen mothers are more likely to have their babies out-of-wedlock than older mothers. This contributes heavily to welfare receipt. Among AFDC recipients in 1988, 59 percent were 19 or younger when they gave birth to their first child. Among non-poor mothers, 25 percent were 19 or younger.

The age at which a parent begins to receive AFDC is significant in predicting how long he or she will receive AFDC. Younger first-time recipients are more likely to become long-term recipients.

AFDC Recipient Characteristics

Age at Beginning of First Spell



Work

The most important variable that determines whether a child is poor or on welfare is whether or not the child's parent's work.

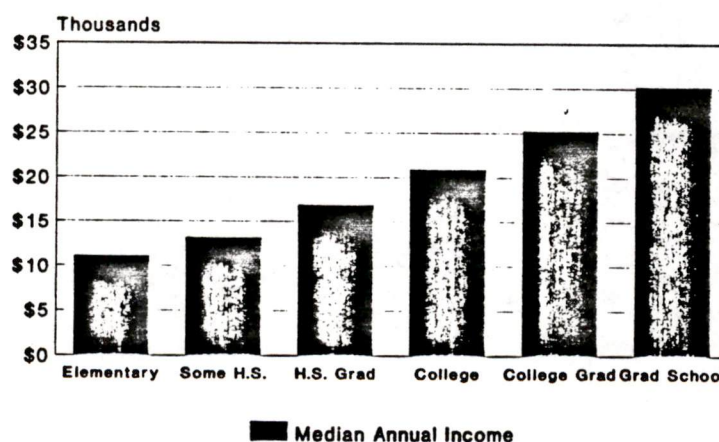
Only 8.5 percent of AFDC households reported any earnings

in 1989. Recent expansions in the Earned Income Tax Credit (EITC) have increased the returns to work. This year a single mother with a child who works full time, even at the minimum wage, will, with the EITC payment, have an income above the poverty level. Such a minimum wage earning parent can expect an EITC payment of \$1,311. Those who qualify for the maximum EITC will receive \$2,189 this year.

Education

Education is an important factor in determining what a single mother can earn and whether she is likely to need to turn to welfare.

Women's Median Annual Income By Educational Achievement



Data for 1988

Among female heads of AFDC households, 57 percent have completed high school or obtained a General Equivalency Diploma (GED.) Among non-poor women with children, 88 percent have

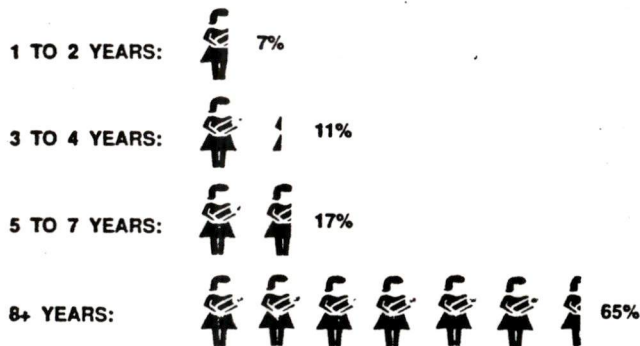
completed high school.

Short-term Receipt v. Long-term Dependency

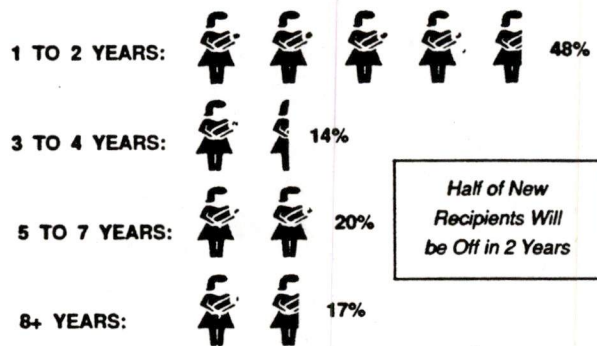
For some, welfare programs provide temporary assistance. For others, receiving welfare continues so long that it can be termed a way of life. Welfare reform is unlikely to affect the changes in life circumstances that lead to relatively short stays on welfare, for example, women who find themselves suddenly abandoned by their husbands. However, welfare reform can change the circumstances and incentives faced by those who make up the greatest share of the welfare rolls at any one time, those who are likely to be receiving welfare for eight years or more, the long-term dependents.

Two views provide very different pictures of dependency. Of a group of mothers beginning to receive AFDC, those for whom welfare will be a short-term experience make up the largest share. About one-half can be expected to leave AFDC within two years. However, a snapshot view of all those receiving AFDC at one moment in time provides a very different picture of the recipients. More than half are in the midst of a period of receiving welfare that will last eight years or more.

AT ANY TIME, THE MAJORITY OF THOSE ON WELFARE WILL BE ON FOR 8 OR MORE YEARS



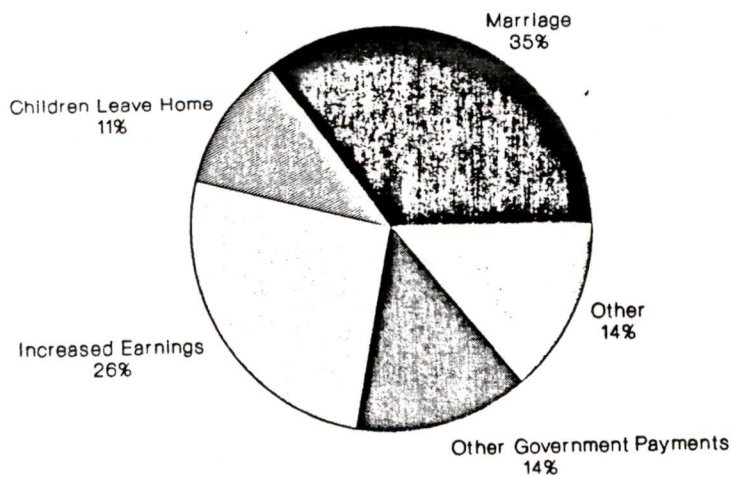
LENGTH OF STAY FOR NEW RECIPIENTS



Getting off welfare

While the AFDC rolls are dominated by long-term recipients, nearly half of those coming on the welfare rolls will be off in two years. Reasons for leaving are lead by marriage and increased earnings.

**AFDC Recipient Characteristics
Events Associated with Endings of Spells**



Other factors that distinguishes short-term from long-term recipients (when long-term recipients are defined as those recipients who have received welfare benefits for three out of the last five years) are:

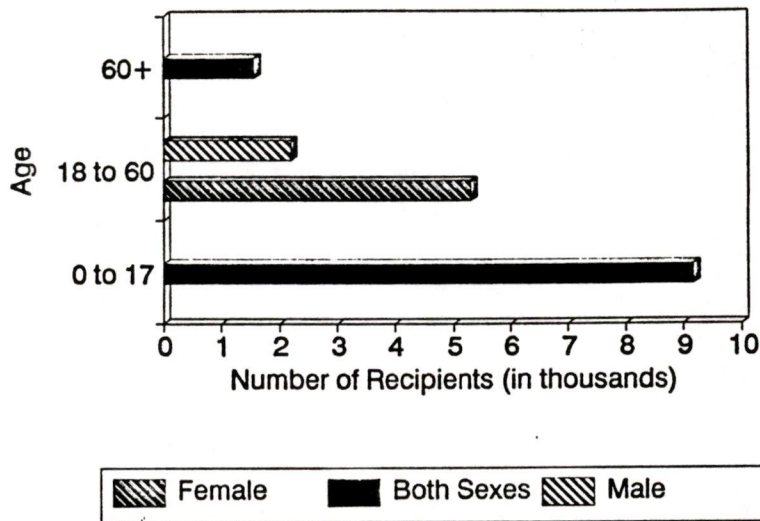
- Number of children. The more children, the less likely a family will get off the rolls. Three in ten long-term recipients have three or more children, compared to two in ten short-term recipients, and one in ten non-poor mothers.
- Teen motherhood. 43 percent of long-term recipients were 17 or younger at the birth of their first child, compared to 25 percent of shorter term recipients.
- Work experience. Those who have some work history leave welfare faster than those who never worked before.

The Different Demographics of Food Stamps and Medicaid Recipients

Of the three core welfare programs, Food Stamps is the one program that helps adult men to any significant extent. Adult males make up 29 percent of Food Stamps recipients between the ages of 18 and 60 years.

Food Stamp Recipient Characteristics

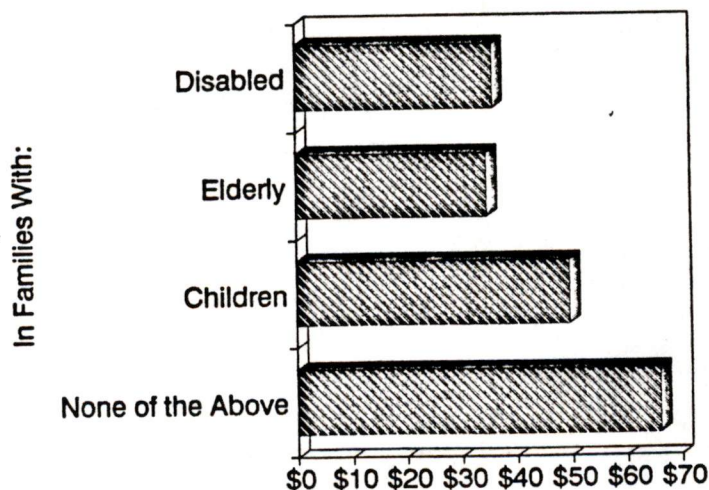
Sex and Age of Recipients



Since the Food Stamps benefit levels take into account any other assistance a person might be receiving via Medicaid or AFDC, those people on neither of those programs receive higher Food Stamp benefits. The following chart demonstrates how families without children, disabled persons, or elderly persons (and therefore probably not receiving other types of welfare benefits) receive higher benefits per person than those families.

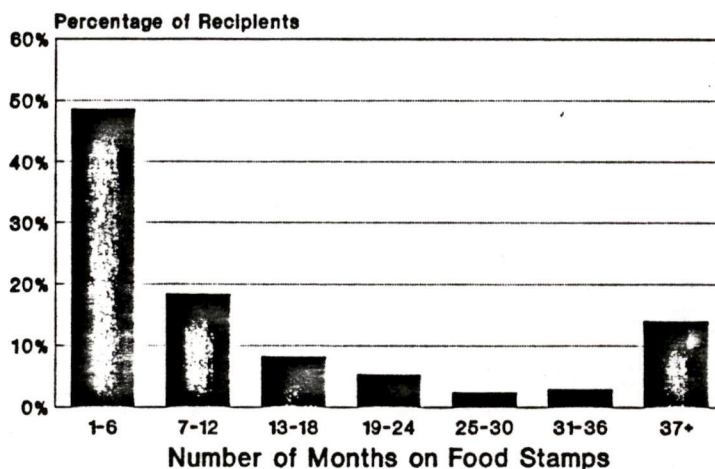
Food Stamp Recipient Characteristics

Average FSP Benefit Per Person



The people served by FSP tend to stay on the rolls for shorter periods of time than AFDC recipients. Whereas nearly half of all AFDC recipients at any one point in time will receive benefits for more than eight years, only 13.9 percent of Food Stamps recipients stay in the program for more than 3 years. Food Stamps recipients exhibit less of the characteristics that lead to long-term dependence than do AFDC beneficiaries.

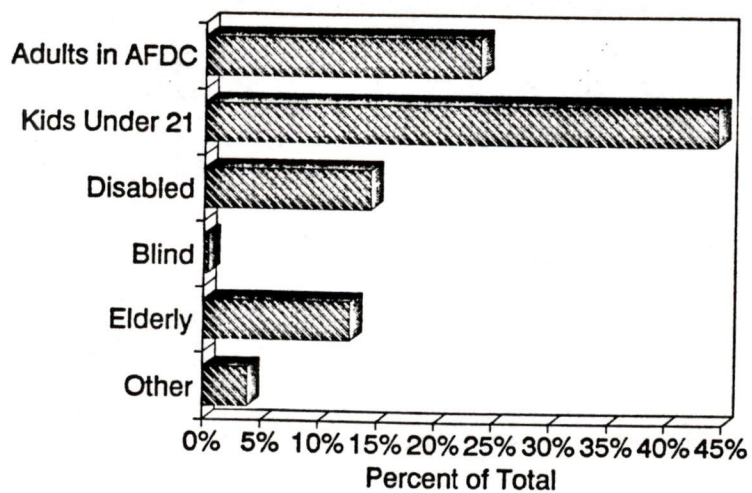
Food Stamp Recipient Characteristic Length of Time on the Rolls



Sixty-eight percent of Medicaid recipients are eligible for the program due to the fact that they receive AFDC benefits. Other participants include those persons with disabilities and elderly persons.

Characteristics of Medicaid Recipients

Basis for Eligibility



Thus, those characteristics used to describe AFDC beneficiaries are similar for Medicaid recipients.

Document Originally
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3/9

Please file for

Findlay

Welfare Reform

THE WHITE HOUSE
WASHINGTON

DATE: 2/28/94

TO:

STE S

FROM: D. CAMERON FINDLAY
Deputy Assistant to the President and
Counselor to the Chief of Staff
1st Floor, West Wing, x6594

☒ FYI

- ☐ Appropriate Action
- ☐ Let's Discuss
- ☐ Per Our Conversation
- ☐ Per Your Request
- ☐ Please Return

COMMENTS:

THIS IS HHS'S
paper on the Oregon
health plan waiver
request.

The President has solicited bold new state experiments for reforming welfare programs. In addition, the President's Health Care Reform proposal emphasizes State flexibility to take advantage of innovation, program efficiencies, and better methods for cost control. The Oregon Waiver proposal is widely viewed as being a prime example and has bipartisan backing of most Oregon elected officials.

The State of Oregon has submitted a proposal to conduct a new Medicaid program as a 5-year demonstration. Oregon's innovative approach to providing health care coverage for low income individuals has captured much national media attention -- both positive and negative. A summary of the proposal is attached.

ISSUES

However, a number of important issues have been raised in the media and by vocal interest groups and must be considered, including:

INCREASED FEDERAL FUNDING -- Oregon's program would potentially increase federal Medicaid payments by approximately \$150 million over 5 years according to Oregon's own projection. Others, including the Congressional Budget Office, have estimated higher federal costs. The Administration has always required that waivers be "budget neutral."

RATIONING OF HEALTH CARE FOR MEDICAID RECIPIENTS -- Expanded coverage of persons not now eligible for Medicaid would be financed in part by reducing health services to persons now eligible for Medicaid. Advocates for the poor question whether it is appropriate to reduce to benefits to which people are entitled by law.

POTENTIAL INCENTIVES FOR ABORTION -- Abortion would be an explicitly covered service under Oregon's proposal (100% state funded). The Oregon proposal has aroused concern among right-to-life groups because it makes abortion a relatively high priority medical service far above services such as medical care for very low weight and very premature babies.

GOVERNMENT-SANCTIONED DENIAL OF LIFE PROLONGING TREATMENT -- Oregon would not cover medical therapy for many illnesses where the chance of survival or substantial improvement in health status is low. For example, medical therapy for cancer where the prognosis is less than 10% survival over five years would not be covered. However, hospice care would be covered.

POTENTIAL VIOLATION OF THE AMERICANS WITH DISABILITIES ACT -- The Oregon Medicaid program might violate the ADA or other civil rights laws designed to assure equal rights for handicapped persons, although application of the demonstration to the aged, blind and disabled will be delayed.

ADVANTAGES

These potential issues need to be balanced against the clearly positive aspects of Oregon's plan:

PRESIDENTIAL INITIATIVE ON STATE WAIVERS -- The President has solicited bold new State experiments. This is widely viewed as being a prime example. In fact, it is the only major State waiver HHS has in house. Turning down this proposal would call into question the Administration commitment to waivers.

BIPARTISAN SUPPORT OF STATE GOVERNMENT -- This proposal has bipartisan backing of most elected Oregon Democrats (including the Governor) and Republicans (including the two U.S. Senators).

ADDRESSES SOME ADMINISTRATION OBJECTIVES -- This proposal could test expanded health coverage and use of managed care to control costs -- even though it also tests ideas the Administration does not support like "pay or play" or rationing of care.

STATUS

In summary, HHS is evaluating the issues surrounding this waiver. Actions taken on this waiver will help set standards for reviewing waiver requests from other states with regard to welfare reform as well as Medicaid. The review is expected to be completed in the spring.

Attachment

SUMMARY of OREGON PROPOSAL

Oregon's proposal has several parts:

EXPAND AND REFORM MEDICAID --

- . Expands Medicaid Eligibility: Medicaid eligibility is currently limited to very low income single-parent families, pregnant women and their infants, children, and aged, blind, and disabled persons. The proposal would expand Medicaid to cover all persons below the poverty level. This would increase enrollment from 208,000 to 339,000.
- . Prioritizes health care services: All medical services have been ranked by Oregon according to their priority. The services viewed as having the least value would not be covered. This has been widely characterized in the media as explicit rationing of health care.
- . Increases provider payments: Medicaid payments would be increased to assure that provider costs are covered.
- . Extends managed care: Use of managed care would be greatly expanded to include almost all Medicaid beneficiaries.

PAY OR PLAY --

By 1995, all Oregon employers would be required to provide health insurance to all workers and their dependents, or to pay a tax in lieu of insurance. The employer mandate would not go into effect if the Medicaid demonstration proposed is not approved.

HEALTH INSURANCE REFORM --

Reforms the insurance market by creating an all-payers' high-risk pool.

Dallas — jobs

highway bill
new theme — infrastructure

Ga.

Atlanta — like Charleston
don't add internat'l. trade (Delta, Coca-Cola, ^{get specifics} ~~holding~~ ^(internat'l companies)
and add Ga. contribution to Desert Storm

Sunday

trade again

Ga. contribution — H. Stewart

more troops want them there than anywhere

all political speeches following Tuesday have some
concrete economic (jobs) talk

Tues — Family & Home Vision

list family ~~values~~

restore Am. family —

morals —

children —

Demos — want program — I want parent
involvement — "what happens in your house
is more important than what happens in the White
House"

Prayer — his core appreciation —

Fla. speeches — some economic stuff

Phases ideas of Cuban speech

Wed. 1. sum. / Fri. 1. stump
in house / speed w/ jobs summit
and build for local
market

Welfare Reform 2/28

① Letter from Sec'y Sullivan
or mfg. w/ ~~the~~ state
Wash. Ings

② HHS regs to permit
different methods of
processing
- flexibility re
administration of
programs

★

HHS ~~would~~ will do
one-page on admin flex

③ Integrate into Jay's fact
sheet

- Joanne's "Bush Welfare
Reform Initiatives"

- multiprogram initiatives

④ Legis. Strategy

Ⓐ

Which option

Ⓑ

Identify legis chgs
for M/RVing

Options: Legislation for Welfare Reform

Current statutory authority limits the scope and scale of welfare reform projects.

- The "waiver" authority for the Social Security Act programs (AFDC, Medicaid) implies that the reform would only be for a period of time and then return to the status quo ante.
- The Food Stamp waiver authority precludes any steps that reduce the benefit level.
- There is no formal waiver authority in the laws governing HUD programs. However, HUD could grant waivers from regulatory requirements.
- Some state reform proposals will encounter unsurmountable legal objections in the federal review process, objections grounded in statutory limitations.

The Administration currently has two flexibility proposals before the Congress: the Community Opportunity Act, legislation that would allow approval of projects that cross program lines and has an "anything goes" approach to what can be tried, and the "ed flex" component of the Education Excellence Act that would allow waivers across education programs.

Options

Option 1. Advance no additional legislative proposals.

A limited version of the education proposal (limited in the number of projects that can be approved) is in the Senate-passed education excellence act. The Community Opportunity Act appears hopeless; in the House it would be in the jurisdiction of so many committees that enacting it would require repealing the law of Congressional inertia.

Pro:

- Low probability of Congressional action allows the Administration to make the point that Congress is part of the problem rather than the solution.
- The proposal has already been on the Hill for nearly a year; "over a year" has more credibility than "over two months" as a measure of how long is too long.

Con:

- May not help all states that encounter roadblocks in current law to approval of waivers.

- After saying it is "welfare reform," the Community Opportunity Act is hard to describe.

Option 2. Proposal remedial legislation when roadblocks are discovered.

Variation A: Whenever a state reform proposal is found to be unapprovable in whole or part because of some statutory impediment, include, as part of the response to the state, a legislative proposal to fix the problem.

Variation B: Anticipating that some of the proposals working themselves up from the states will have problems, draft and submit legislation that removes impediments waivers/state plan amendments would face if pending today in the Executive Branch.

Pro:

- Adds substance to the Administration's welfare reform legislative proposals beyond the request for waiver authority.
- Avoids repeated efforts to construct a legal analysis that can not be done along with the subsequent disappointment for states that their proposals cannot be done.

Con:

- Associates the Administration with substantive reform (allowing benefit rollbacks), something that can be avoided when in a "states as labs" approach that does not require agreeing with the substance of the demo.

Option 3. Develop committee-specific legislative language.

Conceding the point that the Congress will be forever unable to cross committee lines, develop committee-specific waiver language that Republican members of Congress can offer as an amendment in their committees. Comparable provisions in several statutes would allow some inter-program flexibility.

Pro:

- Greatest chance of legislative success.

Con:

- An inside the Beltway story; provides nothing to identify as "the President's welfare reform legislation."

Option 4. Forward a new, broad waiver proposal to the Congress.

Develop a new legislative proposal similar to the Reagan Administration's "Low-Income Opportunity Board Act," creating an entity that could approve proposals that crossed agency lines or that could not be approved under current law.

Pro:

- Allows for Presidential involvement that other proposals do not, e.g. a Presidential transmittal event and provides something "new" to which the President can refer.

Con:

- Open to the criticism that the proposal was invented to support rhetoric rather than the rhetoric to support the proposal approach usually seen in policy proposals.

Lefflowitz
2/28

GEORGE BUSH ON WELFARE REFORM

Statement of Principles

Americans are the most generous people on earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become "a narcotic" and a "subtle destroyer of the human spirit."

Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy. It's time to replace the assumptions of the welfare state and help reform the welfare system.

States throughout the country are beginning to operate with new assumptions: that when able-bodied people receive government assistance, they have responsibilities to the taxpayer. A responsibility to seek work, education or job training; a responsibility to get their lives in order; a responsibility to hold their families together and refrain from having children out of wedlock; and a responsibility to obey the law.

President Bush
State of the Union address
January 28, 1992

There are three primary areas where the Administration supports efforts to reform the welfare system. This policy is intended to promote:

- Individual responsibility -- to help people reduce their dependency on drugs, and to keep students from dropping out of school.
- Family responsibility -- to prevent out-of-wedlock childbearing, to remove the disincentives to marriage and encourage families to stay together, and to penalize parents whose children to skip school.
- Economic independence -- to give individuals greater incentives to save money, to encourage welfare recipients to enroll in job training programs, and to help people start their own microenterprises.

The Current Welfare System

Welfare programs are operated by individual states under guidelines from government agencies. The Department of Health and Human Services (HHS) oversees Aid to Families with Dependent

Children (AFDC) and Medicaid; the Department of Agriculture oversees the Food Stamps program; and the Department of Housing and Urban Development (HUD) oversees housing programs.

Although states must abide by Federal statutes and regulations in administering welfare programs, they have substantial flexibility in their design. Should a state wish to redesign its welfare programs, it can do so in two ways. First, a state can make permanent changes in its welfare programs, if the modifications accord with current law, by amending its state plan. Permanent changes that run counter to current require Federal legislation.

Second, a state can test experimental policies for which Federal matching funds are not available under current law by means of a demonstration project. Demonstration projects can receive waivers from the relevant agency when they have met criteria of good evaluation design and cost-neutrality.

Administration policy has been to require a rigorous evaluation, since the project is for demonstration purposes, and cost-neutrality, so that costs to the Federal government do not rise. This often-lengthy process is the one that the President pledged to simplify in his State of the Union address.

Proposals For Reform

The Administration can help states by: (1) facilitating the process of granting waivers; (2) pursuing legislation to allow states to implement successful waiver demonstrations as permanent program changes; and (3) pursuing wider Federal waiver authority.

In order to help states change their welfare plans, the Administration will continue to pursue the legislation it sent to Congress last year to greatly widen the Federal government's waiver authority. The President will also provide personal political support for efforts in individual states to reduce or restructure welfare programs.

In order to facilitate the process of granting waivers for demonstration projects, the President will direct his Cabinet agencies to work closely with state officials prior to the submission of waiver applications in order to anticipate and eliminate any potential problems. The FY93 Budget states that the Administration will institute an interagency review process to coordinate and expedite state requests for waivers.

Waivers that have been granted by the Administration

The Federal government has approved several welfare reform demonstration projects including the following:

- Wisconsin's Learnfare program requires all teenagers on AFDC (dependent children and heads of families) who have not graduated from high school or earned a high school equivalency diploma to attend school on a regular basis;
- New Jersey's REACH (Realizing Economic Achievement) program broadened the scope of those required to participate in employment-related activities; and
- Washington State's FIP (Family Independence Program) provides financial incentives to those who participate in education, training or employment activities.

State Welfare Reform Initiatives

Many innovative welfare reforms are being considered at the state level create incentives to modify individual behavior by penalizing dependency-creating behavior such as out-of-wedlock childbearing, dropping out of school and drug use. The various welfare reforms being considered at the state level include:

- Paying AFDC benefits at the level of the state in which the recipient previously lived (California, Wisconsin);
- Reducing AFDC payments to families headed by non-disabled adults, either after an initial transitional period (California), or if they refuse to participate in appropriate work, training or education (New Jersey);
- Limiting AFDC payments based on the size of the family at the inception of benefits (California, New Jersey, Wisconsin);
- Expanding AFDC eligibility to married couples and two-parent families (New Jersey, Vermont, Wisconsin);
- Extending earned income disregards (California, Vermont);
- Requiring specific parental responsibilities including receipt of preventive health services and regular payment of rent (Maryland, Vermont); and
- Mandating regular school attendance of youth (California, Maryland, Wisconsin, Florida).

Proposed Talking Points for the President

- As I noted in my State of the Union address, many states have already begun reforming their welfare systems in order to help people become self-sufficient. Certainly, the passage of the Family Support Act in 1988, which I strongly supported, has given important impetus to this process.

- I know that states may need waivers of statutes and regulations from Federal agencies in order to demonstrate how to refashion the categorical programs which make up the current system. I am ready to take immediate action to help this movement.
- In order to speed up the process by which we review waiver requests, I will direct my Cabinet agencies to work closely with state officials prior to the submission of waiver applications in order to anticipate and eliminate any potential problems.
- Last year we sent up legislation to Congress in order to widen the Federal government's waiver authority. Congress should pass that legislation as quickly as possible.
- I support efforts to reform the welfare system by placing greater emphasis on family and parental responsibility and by discouraging dependency-creating behavior such as out-of-wedlock childbearing, dropping out of school and drug use.
- I have always felt that states can be the best laboratories for new and innovative programs. I look forward to making it easier for states to develop new approaches to welfare policy.

HHS
2/28

- Aggressive implementation of the Family Support Act:
 - o All 50 States operating JOBS welfare-to-work programs by October 1, 1991
 - o 35 States operating statewide programs one year early
 - o 550,000 welfare recipients participating in welfare-to-work programs each month
- \$3 billion increase in child support payments in 3 years of Bush administration
 - o 460,000 paternities established in FY 1991 - a 50% increase over 1988
 - o 2.6 million absent parents located in FY 1991, the first critical step in collecting child support - an 85% increase over 1988
 - o 2.6 million cases with child support collections in FY 1991 - a 37% increase over 1988
- Secured passage of largest child care program in history
 - o Strong emphasis on parental choice put power in the hands of parents not the government
 - o Helps low-income parents stay self-sufficient not welfare dependent
- More than doubled funding for Head Start program and increased enrollment by 73 percent since 1989
 - o FY 1993 budget request contains largest single increase in program's 27-year history
 - o Every eligible child whose parents want them to participate can do so for one year before entering school
 - o Helps break cycle of dependency for future generations

Bush Welfare Reform Achievements

Improving Employability of Welfare Recipients

Under the Bush Administration's leadership, all fifty States have implemented the new JOBS program to move welfare recipients from welfare to work. Our commitment has been demonstrated, not only in the budget process, but in a broad range of activities designed to encourage State implementation of effective JOBS programs.

- o We worked on a fast track to issue program regulations, approve State and Tribal plans, and issue grants.

As a result:

- By October 1, 1991 (one full year before their deadline), thirty-five States were operating their JOBS programs on a statewide basis.
- Each month under JOBS, over 550,000 welfare recipients are participating in education, training and employment activities to help them become self-sufficient. In 1992, we are making \$1 billion in Federal funds available to States for this purpose.
- o Under an agreement jointly signed by the Secretaries of HHS, Labor, and Education, we are spending about \$6 million dollars for technical assistance to help States and Tribes develop more effective programs.
- o In five States, we have undertaken comprehensive, state-of-the-art evaluations of the JOBS program. These evaluations will help point the way to programs which will be even more successful in helping people become self-sufficient.
- o THE Bush Administration put implementation of new child care programs on a fast track to ensure that JOBS participants and other individuals receive the child care benefits to which they are entitled.
 - Our regulations ensure that parents have a wide range of choices available when they select a provider.
 - We expect to provide about \$430 million in Federal funds for the new child care entitlement programs in 1992.
- o We pushed for timely and successful implementation of two child care programs newly authorized in 1990--the Child Care and Development Block Grant and At-Risk Child Care. Working under extremely tight deadlines, we issued regulations, approved plans, and issued grants. In developing the

regulations, we took special care to ensure that parental choice was protected. This year we are making over \$1 billion available under these programs.

Increasing Support Provided by Absent Parents

- o The Bush Administration also focused its efforts on strengthening the child support enforcement program to increase the financial support provided to families by absent parents.

--We instituted standards for effective child support programs--for the first time--beginning October 1, 1990.

--We are investing millions of dollars on nationwide automated support enforcement systems which will substantially improve the effectiveness of State programs. We are also supporting the development of a national telecommunications network which will enable rapid exchange of interstate information; this capability is vital if we are to be successful in securing support from parents who flee across State lines to avoid their obligations.

- o In 1991, we established a Child Support Enforcement Training Center to serve as a training resource and clearinghouse for States.
- o In FY 1991, States collected child support totalling almost \$7 billion, up from \$4.6 billion in 1988. Thus, in the first three years of the Bush Administration, collections rose 50 percent. About \$2 billion of the 1991 total (30 percent) represented collections on behalf of families on welfare.

Paternity was established in 460,000 cases--up from 307,000 cases in 1988 (i.e., another increase of 50 percent).

Promoting State Welfare Reform Initiatives

- o The Bush Administration has approved, or modified, eight demonstrations for which States had applied at the end of the Reagan Administration.
- o No State which has pursued Federal approval of its welfare reform program has been refused.
- o Currently, at the President's direction, we are working closely with States which are considering reform initiatives, but have not yet requested Federal approval. Consultations to help expedite approval are underway. We are committed to giving their proposals prompt action.

Related Developments

- o In April of 1991, Secretary Sullivan created a new Federal agency--the Administration for Children and Families--within the Department of Health and Human Services. This reorganization reflects our recognition of the need "to place greater emphasis and greater focus on the needs of America's children and families."
- o The President's budget for 1993 includes a request for an additional \$600 million for the Head Start program--the largest single increase in that program's 27-year history. It also includes increases in funding for other programs serving at-risk children including foster care, adoption assistance, child welfare, discretionary child abuse activities, and abandoned infants.

THE WHITE HOUSE

WASHINGTON

February 19, 1992

MEMORANDUM FOR JOANNE B. BARNHART
RICHARD BAVIER
CAM FINDLAY
DIANA FURCHTGOTT-ROTH
MARTIN GERRY
CHARLES E. M. KOLB
ANNA KONDRATAS
JAY LEFKOWITZ
BETTY JO NELSEN
JANET REHNQUIST
THOMAS A. SCULLY

FROM: HANNS KUTTNER *HK*
SUBJECT: Waiver Legislative Proposals

At last Friday's discussion of welfare reform efforts in the states, we discussed the history of Administration legislative proposals for flexibility and more extensive waiver authority.

Enclosed are:

- (1) "The AMERICA 2000 Excellence in Education Act." See Title IV, "Education Reform and Flexibility."
- (2) "The Community Opportunity Act of 1991."
- (3) "Low-Income Opportunity Improvement Act of 1987."

The three take different approaches. The AMERICA 2000 proposal applies to Department of Education programs with the potential for coordination with other agencies. The Community Opportunity Act allows for waivers across agencies, with the authority to grant waivers remaining in the head of the agency running the program. The Low-Income Opportunity Improvement Act took the most aggressive approach, with the authority to grant waivers vested in an interagency board.

*[You were not at this meeting
but Charles Kolb indicated you
plan to attend this Friday.]*

Current DHHS Policy on Welfare Reform Waiver Demonstrations

Overview

In the 1992 *State of the Union* address, the President pledged to improve (i.e., "make quicker and easier") the process used by Federal agencies to review State requests for the granting of "waivers" in order to excuse State compliance with one or more of the statutory or regulatory rules that govern Federal welfare programs. The Department of Health and Human Services (DHHS) has received, reviewed and made final determinations on scores of welfare waiver request over the last decade. This paper is intended to summarize the experience and describe the policy which DHHS currently follows with respect to these State waiver requests.

The Federal Welfare System

The core of the Federal welfare system is made up of three large Federal-State programs: (1) Aid to Families With Dependent Children (AFDC), (2) State Medical Assistance program (Medicaid), and (3) the Food Stamp Program. At the Federal level, the first and second of these State-administered programs are coordinated by HHS; the latter program by the Department of Agriculture. Together, these programs provide cash, food and medical assistance for low-income persons. Depending on a State's *per capita* income, the Federal Government contributes from 50 to over 80% of the overall cost of AFDC benefits and Medicaid services. Federal funds are used to pay for the entire cost of food stamp coupons and for 50% of the administrative costs of the program. Under each of these State administered programs, individuals are entitled by law to a prescribed level of services or cash benefits if they meet specific categorical eligibility requirements. Eligibility under each of these programs is open-ended and expenditures are uncapped for AFDC and Medicaid. Indeed, over the last 24 months, each of these programs has experienced dramatic expansion (as high as a 1% caseload increase per month).

The three programs are partially but not fully integrated because the target populations of low-income persons are slightly different and their eligibility rules are sometimes inconsistent. AFDC eligibility brings with it automatic Medicaid eligibility; most AFDC families are also eligible for the Food Stamp Program. However, a large number of food stamp recipients are neither Medicaid nor AFDC eligible. A fourth Federal program, the Supplemental Security Income (SSI) provides cash benefits to over 5 million aged and disabled persons. While some States supplement SSI payments, the basic SSI program is Federally administered and totally Federally funded.

Federal Waivers and the President's Commitment To an Expedited Process

Section 1115 of the Social Security Act grants broad waiver authority to the Secretary of HHS to approve *experimental, pilot and demonstration projects* to be implemented by state agencies administering programs established under both the AFDC and Medicaid programs. The Secretary of Agriculture is given somewhat similar but more circumscribed authority under the food stamp legislation. Because SSI is a Federally administered and financed welfare program, state waivers are a *non-sequitur*. The Budget Document

Current DHHS Policy on Welfare Reform Waiver Demonstrations
Page 2

accompanying the President's 1992 *State of the Union Address* identified two basic policy principles which will govern the consideration of state waiver requests under the expedited process proposed by the President:

(1) **Cost neutrality** — a principle governing the allocation of costs between a state and the Federal Government during a state waiver demonstration program.

(a) States may not expend more Federal funds during the demonstration than the sum of the Federal funds that would have otherwise been available to them during the same period under the program or programs directly involved in the demonstration.

(b) If states actually expend less Federal money during the demonstration than the sum of the Federal funds that would have otherwise been available to them during the same period under the program or programs directly involved in the demonstration, they may use difference to pay for demonstration activities for which Federal funds are not otherwise available.

(2) **Rigorous evaluation** — a principle which requires that states must agree to a rigorous evaluation of the demonstration proposed by the waiver, usually based on experimental evaluation design.

Current DHHS Policy and Practice

The Department has established policies in four areas in order to establish an efficient process for reviewing and making final determinations on waivers submitted by States under one or more of the core Federal welfare programs: cost neutrality, evaluation, entitlement/equity considerations, and process. Each of these areas is discussed separately below.

Cost Neutrality Issues

During the Reagan Administration, the policy of cost neutrality (as defined in the President's Budget document) was established as a fundamental condition for the approval of any State waiver request. While the Department has never deviated from that principle, it has amassed considerable experience in its practical application to both cash benefit and health care programs. For example, in determining whether a waiver application is, in its entirety cost neutral, the Secretary has had to make complex and difficult judgments concerning a series of technical issues. These issues have included the methods proposed by States for (1) establishing a "cost baseline" against which "cost neutrality" calculations can be made, (2) projecting the costs of the proposed waiver demonstration, and (3) estimating the savings which will be generated by the proposed demonstration. For example, the Department has been asked to judge the validity of State projections of the impact of a proposed demonstration on caseload

growth or reduction, service utilization, the incidence of medical problems in the covered population that will require services delivery, and the rates of program deflection which will occur as a result of proposed service innovations (e.g., managed care). The Department has also had to reach decisions concerning the validity of State estimates of expected savings due to implementation of new technologies, substitution of less costly providers, "more efficient administration", and implementation of a capitated payment program. Our experience shows that linking *cost neutrality* to a *rigorous evaluation design* provides the most accurate method for establishing baseline costs and savings.

Evaluation Issues

The Department has also long adhered to the policy of rigorous evaluation, as defined in the President's Budget document. In fact, over the history of the welfare waiver activity frequent disputes over evaluation methodology have occurred. Despite the economic burden created by the requirement, the Department believes that a combination of legal, policy and budgetary considerations compel such a policy. In negotiating scores of waiver demonstration evaluation plans, the Department has gained considerable practical experience concerning the rigorousness of evaluation design. For example, the Department has frequently been involved in technical discussions concerning the types of assessments which will be required in order to meet the standard. These assessments include: (a) process evaluation, (b) impact (e.g., caseload growth or reduction) evaluation, and (c) cost/benefit analyses. Each of these types of assessment brings with it a wide range of significant technical issues. The goal has been to fashion an overall evaluation plan that is tailored to the particular waiver demonstration under consideration and combines those elements which will allow both the State and the Department to gain the maximum useful information from the demonstration process. In general, experimental evaluation designs have consistently provided the most reliable assessment of project impact and cost-benefit.

Entitlement/Equity Issues

In situations where State propose welfare program waivers that will or might result in disparate treatment of program beneficiaries, complex legal and policy questions have arisen concerning the constraints which law or public policy should place on the content of proposed demonstrations. The starting point for the Secretary in addressing these issues has been the statutory purpose of Section 1115 waivers: to find ways to improve the effectiveness of a program(s) in meeting their underlying purpose (e.g., income support, good health). As a result, the Secretary has adopted the general policy that waiver requests will only be approvable if the *net effect* of the proposed approach on all beneficiaries is that they are no worse off than they would be under the basic programs. Federal courts have held that certain welfare programs (e.g., AFDC) establish property rights in all those persons who meet the basic eligibility standards.

Current DHHS Policy on Welfare Reform Waiver Demonstrations
Page 4

Given this policy and legal background, the Secretary has identified two types of situation for purposes of policy application. In the first instance, where individuals or subgroups of currently eligible persons would, as a result of the proposed waiver demonstration, be totally excluded from participation in both the program of benefits or services as currently configured and the program of benefits or services as configured in the proposed demonstration, the Secretary has concluded that the proposed outcome would be clearly inconsistent with underlying purpose of the waiver authority as well as the "net benefit" policy concept.

In the second instance, where individuals or subgroups of currently eligible persons would or might be denied, as a result of participation in the proposed waiver demonstration, some of the benefits or services they are currently receiving, the Secretary has approached each waiver request on a case-by-case basis. In one instance, the Secretary applied this policy to permit a State to reduce benefits to a sub-group of beneficiaries who had failed to carry out important parental responsibilities on the condition that the State used the same funds to improve family functioning or parenting for the same families. The Secretary continues to be guided by a compelling belief that any proposed disproportionate reduction in the current level of benefits and services for an individual or a subgroup of beneficiaries must be offset by what are arguably compensatory benefits for the same persons or for the program as a whole.

Process Issues

The Department's experience with the waiver submission and review process is also, long standing. DHHS has strived to provide extensive technical assistance prior to State submission of formal waiver requests and the Secretary, in working with the process over the last few years, has come to believe that while this type of informal assistance is vitally important. Once this type of assistance has been provided, however, it is equally important that States submit formal waiver requests that are complete and self-executing. In other words, except in extraordinary circumstances, we should refrain from providing States what amount to "advisory opinions" on waiver ideas where the political and legal groundwork needed to really carry through on the idea has not been completed. This combination of active pre-submission technical assistance and required pre-submission enabling action (i.e., ducks in a row) will provide the best assurance that we can follow through successfully on the President's pledge of a quicker and easier process.

Martin Gerry

Jo Anne Barnhart

February 20, 1992

WEEKLY WAIVER TRACKING SHEET

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
Oregon	Medicaid waivers part of broader health access and cost containment proposal. Medicaid would be extended to all below poverty, but only a standard package.	HHS/HCFA	8/91	Briefing planned for Sullivan. Issues include budget neutrality, grandfathering of current recipients, concerns that abortion incentive may exist under some circumstances.
EXPECTED				
California	AFDC benefits reduced 10 percent across the board, another 15 percent after a family has been on the rolls 6 months; new arrivals receive benefits at the level of States they left for one year; no additional benefits for children born to mothers on the rolls; minor mothers must live with parents, are rewarded for staying in school, face penalty from dropping out; disregard one-third of earnings permanently; eliminate 100 hour rule for two-parent families. Some interest in Medicaid expansions for children.	HHS/ACF HHS/HCFA	Not received yet.	Major provisions to appear on a State referendum. Not clear whether State will submit waiver requests before that. Lower benefits to new arrivals may face constitutionality problem. State is familiar with 1987 Wisconsin waivers by LIOB. Is expected to ask for federal "savings" from 25 percent AFDC benefit reduction - about \$450m/year net of added food stamps.
Connecticut	Require school attendance by dependent children; require that parents immunize children.	HHS/ACF	Not received yet.	No contact yet between State and HHS. Information from press reports only.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Florida	Medicaid: expansion of eligibility to permit Medicaid buy-in as part of broader access effort included small business and other pooled purchasing arrangements. Voluntary price controls and admin savings measures.	HHS/ACF HHS/HCFA	Not received yet.	Medicaid: 1/31 Chiles letter to Sullivan: 1) providing overview of bill that must go through State legislature; 2) asking for help in the future with Federal waivers and statutory changes.
	AFDC: incentive payments or reductions for school attendance of teenagers on AFDC.			AFDC: proposal is in bill before legislature.
Maine	Benefits would not increase automatically for mothers on AFDC who have another child while on the rolls.	HHS/ACF	Not received yet.	State letter to HHS regional office asking guidance about how to get Federal approval of change.
Maryland	Reduce AFDC benefits across the board about 30 percent, but restore benefits for good behavior - immunizing children, school attendance.	HHS/ACF	Not received yet.	State wants to make changes without waivers. ACF considering whether that would be possible under current law.
New Jersey	Benefits would not increase automatically for mothers on AFDC who have another child. However, they would be eligible for enhanced work incentives that would permit them to keep more of their AFDC as their earnings rise.	HHS/ACF	Not received yet.	HHS has received information about proposal from State. Target for implementation 7/1/92. Feb 10 Florio letters to Director and Sullivan requesting meetings.
Rhode Island	Benefits would not increase automatically for mothers on AFDC who have another child.	HHS/ACF	Not yet received.	Based on discussion of waivers at NGA meeting, State has phoned HHS regional office about how to get Federal approval of change.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Vermont	All child support payments go directly to AFDC family; target child support enforcement; waive rule that families are not eligible for AFDC-UP if father works more than 100 hours per month; workfare for all AFDC-UP fathers on the rolls more than one year; increase maximum earnings disregarded in calculating benefits; cash incentives to participate in parenting classes, carry out specific responsibilities; possibly workfare for all AFDC adults after a certain period on the rolls.	HHS/ACF	Not received yet.	State submitted report recommending many AFDC changes, ten of which appear to require waivers. ACF scheduled for initial follow-up meeting with State next week.
Virginia	AFDC benefits would not increase automatically for mothers on AFDC who have another child. Disregard 25 percent of earnings when calculating benefits.	HHS/ACF	Not received yet.	No contact between HHS and State yet. Information from press item about bill before State legislature.
Washington	State has major liberal reform demonstration in fourth year. Legislature to consider a wide range of "new paternalism" changes.			No contact between HHS and State yet. Information from press item on bills that may be submitted to the State legislature.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Wisconsin	State has several demonstrations in progress from LIOB days including Learnfare (attend school or lose AFDC). State may ask for waivers to: encourage marriage of unmarried mothers on AFDC by liberalizing two-parent rules, increasing work incentives; provide families who move in from other States with benefits set at the level of the States they left.	HHS/ACF HHS/HCFA	No waiver requests pending.	State has received more than \$40m in Federal matching funds based on "savings" from their demonstration beginning in 1987 (most from a 5 percent benefit cut). State currently pursuing an additional \$100m in "savings" claimed from the same demonstration. HHS and OMB disagree with State's claim.

A BILL

To help the Nation achieve the National Education Goals by supporting the creation of a new generation of American Schools in communities across the country; rewarding schools that demonstrate outstanding gains in student performance and other progress toward the National Education Goals; creating academies to improve leadership and core-course teaching in schools nationwide; supporting State and local efforts to attract qualified individuals to teaching and educational administration; providing States and localities with statutory and regulatory flexibility in exchange for greater accountability for student learning; encouraging, testing, and evaluating educational choice programs; increasing the potential usefulness of the National Assessment of Educational Progress to State and local decision-makers; expanding Federal support for literacy improvements; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "AMERICA 2000 Excellence in Education Act".

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SEC. 2. This Act is organized as follows:

TITLE I--NEW AMERICAN SCHOOLS

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PART C--ALTERNATIVE CERTIFICATION OF TEACHERS AND PRINCIPALS

TITLE IV--EDUCATIONAL REFORM AND FLEXIBILITY

PART A--EDUCATIONAL REFORM THROUGH FLEXIBILITY AND ACCOUNTABILITY

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PART D--PARENTAL CHOICE PROGRAMS OF NATIONAL SIGNIFICANCE
TITLE VI--NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS
TITLE VII--NATIONAL COMMISSION ON TIME, STUDY, LEARNING, AND
TEACHING
TITLE VIII--REGIONAL LITERACY RESOURCE CENTERS
TITLE IX--GENERAL PROVISIONS

FINDINGS

SEC. 3. The Congress finds that--

- (1) eight years after the report of the National Commission on Excellence in Education, the Nation's schools have yet to show significant improvement;
- (2) the educational reforms of the 1980's were too slow and too timid; a bolder and more comprehensive effort that involves the citizens of every American community is needed;
- (3) the Federal Government should provide start-up funding to communities across the country to create their own high-performance New American Schools--schools where all students meet new World Class Standards;
- (4) rewards for schools in which students make significant gains in learning can spur improvements in all schools;
- (5) teachers and school leaders in every State should receive the additional training they need to deliver capable instruction in the core academic disciplines and to provide strong instructional leadership to their schools;
- (6) new approaches to training and certifying teachers

and principals would expand the pool of talent from which schools draw professional staff and would enable talented, qualified individuals who do not possess traditional credentials to enter teaching and the principalship;

(7) greater flexibility and accountability at the school site can enable educators to improve learning for all students;

(8) expanding parental choice among schools can help all schools to improve;

(9) an expanded National Assessment of Educational Progress can be used to provide clear and comparable information on the progress of States, school districts, and schools toward attainment of the National Education Goals;

(10) Americans need to know how much time their children should spend learning, and how that time should be used, in order for those children to develop the intellectual competencies necessary for a productive workforce and an enlightened citizenry;

(11) better coordination of adult literacy services, and access by service providers to information about the best practices in the field of literacy, will assist the Nation in meeting the goal that every adult American be literate by the year 2000; and

(12) therefore, national progress toward attainment of the National Education Goals by the year 2000 can be assisted by the Federal Government through initiatives that provide funds for

the creation of the first of a new generation of American schools; reward schools that make demonstrated progress toward attainment of the National Education Goals; create academies for the training of teachers and school leaders; provide support for development of alternative teacher and school administrator certification programs in the States; provide schools with greater flexibility in exchange for accountability for results; encourage, test, and evaluate educational choice programs; expand the National Assessment of Educational Progress; create a National Commission on Time, Study, Learning, and Teaching; and establish Regional Literacy Resource Centers.

TITLE IV -- EDUCATIONAL REFORM AND FLEXIBILITY

PART A -- EDUCATIONAL REFORM THROUGH FLEXIBILITY AND ACCOUNTABILITY

STATEMENT OF FINDINGS AND PURPOSE

SEC. 401. (a) FINDINGS.--Historically, Federal education programs have addressed the Nation's most pressing educational problems by providing categorical assistance with detailed requirements relating to the use of funds. While this approach has proven generally successful, some program requirements may inadvertently impede educational achievement. The Nation's schools are being asked to deal effectively with increasingly diverse educational needs that current program structures may not be flexible enough to address. In an era when educational change and reform must prevail, it is more important than ever to provide programs that result in improved educational outcomes for all students; promote the coordination of education and related services that benefit children and their families; respond flexibly to the needs of a diverse student population; stop the proliferation of unnecessary Federal, State, and local regulation; and place less emphasis on measuring resources and reviewing procedures and more emphasis on achieving program results.

(b) PURPOSE.--The purpose of this part is to promote educational reform that leads to improved educational outcomes for participants in affected programs. Under this approach, the schools and other recipients of Federal funds would be held

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accountable for achieving specific educational improvement goals in exchange for increased flexibility in the use of their resources. This more flexible approach is intended to enable school and program administrators, teachers, parents, local agencies, and community groups to work together to develop effective education programs that lead to improved achievement and meet the needs of all participants, particularly those who are disadvantaged.

FLEXIBILITY AND ACCOUNTABILITY IN EDUCATION AND RELATED SERVICES

SEC. 402. Subpart 1 of Part C of the General Education Provisions Act (20 U.S.C. 1221 et seq.) is amended by adding after section 421A a new section 421B to read as follows:

"FLEXIBILITY AND ACCOUNTABILITY IN EDUCATION AND RELATED SERVICES

"SEC. 421B. (a) PROGRAM AUTHORIZED.--(1)(A) The Secretary shall, in accordance with this section, assist elementary and secondary schools and other service providers to improve the achievement of all students and other participants, but particularly disadvantaged individuals, by authorizing waivers by which the Governors, State and local educational agencies, and other service providers can improve the performance of schools and programs by increasing their flexibility in the use of their resources while holding them accountable for achieving educational gains.

"(B) In support of these projects, the Secretary is authorized to waive any statutory or regulatory requirement

(except as provided in subsection (e)) applicable to a program administered by the Department of Education that the Secretary determines may impede the ability of a school or other service provider to meet the special needs of such students and other individuals in the most effective manner possible. The head of any other Federal agency is similarly authorized to waive such requirements applicable to a program administered by such agency if the agency head and the Secretary agree that such a waiver would promote the purpose of this section.

"(2) Projects conducted under this section, and any waivers associated with such projects, shall last no longer than three years, except that the Secretary may extend a project and any associated waivers for an additional two years if the Secretary determines that the project is making substantial progress in meeting its goals.

"(3) The Secretary shall terminate a project and its associated waivers if the Secretary, at any time, determines it is not making acceptable progress toward meeting its goals. The head of any other Federal agency who has granted waivers under this section shall determine whether to extend or terminate those waivers, but the Secretary shall have exclusive authority to extend or terminate the project.

"(b) ELIGIBILITY.--(1) Each project that involves elementary or secondary schools shall include the participation of a State educational agency and at least--

"(A) one local educational agency; and

"(B) two schools.

"(2) To the extent possible, each grade and academic program, including programs under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in a participating school shall participate in the project.

"(3) If fewer than all the schools of a local educational agency participate in a project, available resources, including available Federal assistance, shall not be concentrated unreasonably in those schools that do participate.

"(4) Each project that does not involve elementary and secondary schools shall involve at least two programs, including at least one program administered by the Secretary.

"(c) APPLICATIONS.--The Governor of any State wishing to conduct a project under this section shall, after consultation with, as the Governor finds appropriate, the State educational agency, one or more local educational agencies, and other State and local agencies and service providers, submit an application to the Secretary for each such project. Each application shall include a plan that--

"(1) describes the purposes and overall expected outcomes of the project;

"(2) identifies, for each school or site participating in the project, those impediments to improved educational outcomes that would be removed by the proposed waivers;

"(3) identifies the Federal programs to be included in the project, the Federal statutory or regulatory requirements to

be waived, and the purpose and duration of the requested waivers;

"(4) describes the State and local requirements that will be waived, the purpose of such waivers, and, if such requirements will not have been waived before the project begins, when those waivers will be obtained and take effect;

"(5) describes specific, measurable, educational improvement goals for each school or other site in the project and for each school year of the project, including--

"(A) goals for improving the achievement of all participants, including disadvantaged individuals, with respect to achievement in basic and advanced skills;

"(B) goals that reflect the broad purposes of each program for which a waiver is sought; and

"(C) an explanation of how the applicant will measure progress in meeting the goals set for each school or site in the project and for disadvantaged individuals participating in the project; and

"(6) for projects involving elementary or secondary schools--

"(A) identifies the schools to be included in the project and describes the student population at each school, including--

"(i) current data regarding the achievement of the disadvantaged students as well as other students; and

"(ii) the number of students who--

"(I) are of limited English

proficiency, as defined in section 7003(a)(1) of the Bilingual Education Act;

"(II) are children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act;

"(III) are currently or formerly migratory;

"(IV) are educationally deprived, for the purposes of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(V) are eligible for a free or reduced price school lunch;

"(B) describes specific goals for enhancing coordination between the regular education program available to all students and programs serving disadvantaged students;

"(C) if fewer than all the schools in a local educational agency will participate in a project, describes the expected educational outcomes for disadvantaged students in schools that do not participate, and how those outcomes will be assessed; and

"(D) describes how school administrators, teachers, staff, and parents (including parents of educationally disadvantaged children) have been, or will be, involved in the planning, development, and implementation of the goals and program for each participating school.

"(d) APPROVAL OF PROJECTS.--(1) The Secretary shall

approve an application for a project under this section if he determines that the project shows substantial promise of achieving the purposes of this section, after considering--

"(A) the comprehensiveness of the project, including the types of students, schools, programs, and activities to be included;

"(B) the extent to which the provisions for which waivers are sought impede educational improvement;

"(C) the State and local requirements that will be waived for the project;

"(D) the significance and feasibility of the proposed project's goals for each participating school or site; and

"(E) the quality of the plan for ensuring accountability for the proposed plan's activities and goals.

"(2) The Secretary shall consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. Each such agency head shall notify the Secretary of any waivers granted by such agency head as part of such project.

"(e) ALLOCATION OF FEDERAL FUNDS; RESTRICTION ON WAIVERS.--

(1) Federal funds under any program that are used to support a project under this section shall be allocated to States and other recipients in accordance with the statutory and regulatory requirements that govern the operation of that program, except that, for the purpose of such a project, the Secretary (or the

head of any other Federal agency) may extend the duration of, and provide continuation funding to, a project chosen on a competitive basis that a participating agency is conducting before the project under this section commences.

"(2) Neither the Secretary nor the head of any other Federal agency shall waive under this section any statutory or regulatory requirement in awarding a new competitive grant to a State educational agency, local educational agency, or other applicant participating in a project under this section.

"(3) Neither the Secretary nor, where applicable, the head of any other Federal agency shall waive under this section any statutory or regulatory requirement--

"(A) relating to--

"(i) maintenance of effort;

"(ii) comparability; or

"(iii) the equitable participation of students attending private schools;

"(B) under section 438 or 439 of the General Education Provisions Act;

"(C) under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or the Age Discrimination Act of 1975; or

"(D) under the Individuals with Disabilities Education Act--

"(i) relating to the availability of a free

appropriate public education to children with disabilities (including the evaluation and placement of such children), or the procedural safeguards afforded such children and their parents, under part B thereof; or

"(ii) relating to the provision of early intervention services to infants and toddlers with disabilities, or the procedural safeguards afforded such infants and toddlers and their parents, under part H thereof.

"(f) REPORTS AND EVALUATIONS. --(1) Each project shall submit, no later than 90 days after the end of each year of the project, an annual report to the Secretary that--

"(A) summarizes the principal activities of the project;

"(B) contains school-by-school and other data, as described in the project plan, that show the extent to which the project is meeting its overall goals, including its goals for improving the achievement of all participants, particularly disadvantaged individuals, with respect to achievement in basic and advanced skills, and is meeting the goals for each school or other site;

"(C) describes the impact of the project on disadvantaged children in schools, if any, that are not participating in the demonstration; and

"(D) describes the effectiveness of efforts to coordinate programs and services for children and their families as appropriate.

"(2) The Secretary shall submit a report to the Congress every two years that summarizes and analyzes the project reports required by paragraph (1).

"(3) At the end of the 5-year period described in this section, and at such interim points as the Secretary deems appropriate, the Secretary shall report to the Congress on the evaluation of this section by the Department of Education and other affected Federal agencies. Such reports may include recommendations for amendments to program statutes that are based on the experience of projects that successfully raise educational achievement by eliminating or modifying statutory or regulatory provisions that impede educational improvement.

"(g) DEFINITION.--For the purpose of this section, the term 'disadvantaged students' includes students of limited English proficiency, children with disabilities, students who are currently or formerly migratory, and students who are educationally deprived.

"(h) BUDGET NEUTRALITY.--The authority provided by this section shall not be exercised in a manner that, for any fiscal year, increases total obligations or outlays of discretionary appropriations for programs subject to such authority, or that increases total obligations or outlays of funding for all direct-spending programs subject to such authority over those that would have occurred absent such authority."

PART B -- AMENDMENTS TO CHAPTER 2

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 411. Section 1512(a) of the Elementary and Secondary Education Act of 1965 is amended by striking out "not less than 80 percent" and inserting in lieu thereof "50 percent".

STATE USES OF FUNDS

SEC. 412. Section 1521(b) of the Elementary and Secondary Education Act of 1965 is amended--

(1) in paragraph (1), by striking out "25 percent" and inserting in lieu thereof "10 percent"; and

(2) in paragraph (2)(A), by striking out "20 percent" and inserting in lieu thereof "8 percent".

STATE APPLICATIONS

SEC. 413. Section 1522(a) of the Elementary and Secondary Education Act of 1965 is amended--

(1) by submitting a comma and "approved by the Governor," after "an application"; and

(2) in paragraph (2), in the text following subparagraph (I), by striking out "(not to exceed 20 percent of the amount of the State's allotment)".

LOCAL USES OF FUNDS

SEC. 414. Section 1531(b) of the Elementary and Secondary Education Act of 1965 is amended--

(1) by redesignating paragraphs (1) through (6) as

paragraphs (2) through (7), respectively; and

(2) by inserting before paragraph (2), as so redesignated, a new paragraph (1) to read as follows:

"(1) educational choice programs;".

AUTHORIZED ACTIVITIES

SEC. 415. Section 1532(a) of the Elementary and Secondary Education Act of 1965 is amended--

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, a new paragraph (1) to read as follows:

"(1) any activities or expenses directly related to planning, implementing, operating, evaluating, and disseminating information about, the local educational agency's educational choice program, if any, including expenses of parents and children resulting from their participation in such program, to the extent otherwise permitted by law;".

THE WHITE HOUSE
Office of the Press Secretary

Embargoed for Release
Until 1:20 p.m. C.D.T.
2:20 p.m. E.D.T.
Wednesday, May 22, 1991

FACT SHEET

AMERICA 2000 Excellence in Education Act

The President today forwarded to the Congress the "AMERICA 2000 Excellence in Education Act." This bill embodies legislative components of the AMERICA 2000 education strategy presented by the President on April 18. This strategy is designed to foster excellence in education and help the Nation attain the National Education Goals by the year 2000.

The need for a bold, comprehensive, and long-range transformation of American education is clear:

- o Eight years after the publication of A Nation at Risk by the National Commission on Excellence in Education, educational outcomes have improved very little. While some States have enacted educational reforms, these actions have often been too slow and too timid.
- o Our international competitors and trading partners are taking education seriously, and they are succeeding. American students are at or near the back of the pack in international comparisons of subject knowledge.
- o On average, children spend 91 percent of their first 18 years outside the school as part of the larger American community. Too often, this larger community does not provide adequate support for the nurture and education of our children.
- o Although polls indicate that most people believe the American educational system may be in trouble, they believe their own schools and communities are okay.

The AMERICA 2000 education plan offers a strategy that goes beyond Federal programs, calling for a nationwide effort in which all sectors of society are involved. The Federal Government's role in this strategy is limited, as its part in education has always been. But that role will be played vigorously. The Federal Government can help by working with all interested parties to set world class standards, identifying and highlighting successful examples, providing flexibility in the use of resources in exchange for accountability for improved performance, and providing incentives for State and local reforms.

The AMERICA 2000 strategy has four parts:

- o For today's students, we must radically improve today's schools, all 110,000 of them, and make them better and more accountable for results.
- o For tomorrow's students, we must invent new schools to meet the demands of a new century -- a New Generation of American Schools, bringing at least 535 of them into existence by 1996, and thousands by decade's end.

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(OVER)

- o For those of us already out of school and in the work force, we must keep learning if we are to live and work successfully in today's world. A "Nation at Risk" must become a "Nation of Students."
- o For schools to succeed, we must look beyond their classrooms to our communities and families. Schools will never be much better than the commitment of their communities. Each of our communities must become a place where learning will happen.

Within the four major areas of activity, the strategy calls for a variety of specific actions, most of which would take place outside the Federal Government. The bill announced today would authorize legislative components of the plan. Highlights of the legislative initiatives follow.

New American Schools

Program

- o The bill would provide seed money for the creation of the first wave of a new generation of "break-the-mold" schools. These schools would reflect the best of what is known about teaching, learning, and educational technologies and would enable all students to meet world class standards of achievement.

Funding

- o The legislation would authorize \$180 million for fiscal year 1992, \$180 million for 1993, and \$185 million for 1994. This amount would support the creation of at least 535 schools, each receiving up to \$1 million, with at least one in each U.S. Congressional District.
- o Funds would be allocated to States and Territories in proportion to their numbers of U.S. Congressmen, Senators, and Delegates.

Implementation

- o To receive funding, communities would be nominated by Governors from among "AMERICA 2000 Communities" and selected by the Secretary of Education acting on the advice of a panel of experts.
- o Communities would have access to the New American School designs developed by privately funded research and development teams supported by the New American Schools Development Corporation.
- o Federal start-up funds would be used for such purposes as planning, staff training, and purchase of equipment. Basic operating costs would be met from non-Federal sources.
- o All schools would be fully operational by school year 1996-97.

Merit Schools

Program

- o The Merit Schools program would provide rewards to elementary and secondary schools that demonstrate progress, over at least a 3-year period, in increasing the number of students who achieve competence in core academic subjects. Schools would use objective measures to assess educational progress.

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Funding

- o The legislation would authorize \$100 million for fiscal year 1992 and "such sums as may be needed" for the 4 succeeding years. These funds would be allocated by formula to the States, with allocations based on State shares under the Chapter 1 Basic Grants program.
- o Within States, at least 20 percent of Merit Schools funds would be used for awards to schools that demonstrate outstanding progress in mathematics and science education.
- o The amount of each Merit Schools award would depend on State-established criteria, including criteria relating to the size of the school and the economic circumstances of the student body.

Implementation

- o Merit Schools would be selected by the Governor, assisted by a special State Review Panel, using Federal and, at State option, State criteria. Federal criteria would focus on (1) school's progress in increasing the number or percentage of students who meet the National Education Goal of leaving grades four, eight, and twelve having demonstrated competency in five core subjects; (2) school's use of objective measures for measuring educational progress; and (3) the use of an annual public "report card" that describes the school's progress in achieving the National Goals.
- o A school selected as a Merit School could use its award for any purpose that furthers its educational program, including development or implementation of educational programs, purchase of computers and other materials and equipment, and bonus payments to teachers and administrators.

Governors' Academies for TeachersProgram

- o Funding would be allocated to Governors for academies to provide experienced teachers with opportunities for renewal and enhancement of their knowledge and teaching skills in the five core academic subjects of English, mathematics, science, history, and geography.

Funding

- o The bill would authorize \$62.4 million for fiscal year 1992, \$54.2 million for 1993, \$45.9 million for 1994, \$37.7 million for 1995, and \$29.5 million for 1996 for start-up costs of the academies. An additional \$7.6 million would be authorized for awards, given by the academies, to outstanding teachers.
- o Federal funds would be allocated to the States based on numbers of public school teachers. The Federal share of the cost of each academy, not including the teacher awards program, would not exceed 75 percent in fiscal year 1992, 65 percent in 1993, 55 percent in 1994, 45 percent in 1995, and 35 percent in 1996. Matching funds may come from State, local, or private sector sources.

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Implementation

- o Academies would conduct programs of intensive instruction designed to renew and enhance teachers' knowledge of the five core academic subjects. They would also provide teachers with the skills needed to enable diverse populations of students to learn these subjects well.
- o With funding from a separate appropriation, each academy would recognize and reward outstanding teachers of the core subjects.
- o Academies would use Federal funds for start-up and initial operating costs.
- o After 5 years, academies would continue to train teachers in each State using non-Federal funds.

Governors' Academies for School LeadersProgram

- o Funds would be allocated to Governors for academies that provide: (1) recruitment, training, and, as appropriate, internships under experienced school leaders to prospective school leaders, and (2) opportunities for professional renewal and enhancement of skills to experienced principals and other school leaders. In addition, these academies would focus on instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms.

Funding

- o The bill would authorize \$22.5 million for fiscal year 1992, \$19.5 million for 1993, \$16.6 million for 1994, \$13.7 million for 1995, and \$10.7 million for 1996.
- o Federal funds would be allocated to States based on numbers of public schools. The Federal share of the cost of each academy would not exceed 75 percent in fiscal year 1992, 65 percent in 1993, 55 percent in 1994, 45 percent in 1995, and 35 percent in 1996. Matching funds may come from State, local, or private sector sources.

Implementation

- o Academies would use Federal funds for start-up and initial operating costs.
- o After 5 years, academies would continue to train school leaders in each State using non-Federal funds.

Alternative Certification of Teachers and PrincipalsProgram

- o The bill would provide incentives for States to develop, expand, or improve flexible certification systems designed to attract talented professionals with demonstrated subject area competence or leadership qualities. Funds would support such activities as training, program development, and evaluation.

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Funding

- o The legislation would authorize \$25 million, for fiscal year 1992 only, for one-time grants to the States. States would apply for the amount of funds they need or an amount that is proportional to their school-aged population, whichever is less. Excess funds would be allocated on the basis of demonstrated need.

Implementation

- o Grants could support the design, development, implementation, testing, and evaluation of strategies for the alternative certification of teachers and principals, as well as training and recruitment activities.
- o States would be required to consult with teachers, principals, parents, and others in developing their applications. Subgrants would be authorized to school districts, intermediate educational agencies, colleges and universities, and consortia of these entities.

Educational Reform through Flexibility and AccountabilityProgram

- o Because real educational reform happens school-by-school, the teachers, principals, and parents in each school must be given the authority -- and the responsibility -- to make important decisions about how the school will operate. The proposed legislation, therefore, would authorize projects involving educational strategies that focus on student outcomes and feature increased flexibility in the use of funds and services within the project to achieve specific improvements in individual performance.

Funding

- o This authorization would be budget neutral. No new funding is required.

Implementation

- o To carry out a project under this authority, a Governor would submit an application to the Secretary of Education that identifies Federal and State statutory or regulatory impediments that must be waived in order to achieve specified improvements and educational outcomes. The application would indicate measurable goals for the achievement of disadvantaged and other students. Applications would be subject to approval by the Secretary of Education.
- o Requirements that protect the civil rights of students against discrimination and invasions of privacy could not be waived. Children with disabilities would remain entitled to current protections under the Individuals with Disabilities Education Act.
- o Projects would be approved for a period of 5 years. All projects would be carefully assessed to identify any statutory impediments to educational progress that should be removed.

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Amendments to Chapter 2Program

- o The State and local program authorized by Title I, Chapter 2 of the Elementary and Secondary Education Act is a flexible resource that supports educational reform efforts. Currently, most Chapter 2 funds are distributed as small grants to local educational agencies. Concentrating more of these resources at the State level would enhance the likelihood of greater impact. In addition, the potential for using Chapter 2 to encourage educational choice has not been tapped. The proposed legislation would enhance Chapter 2's effectiveness as an agent of reform.

Funding

- o This proposal would have no impact on the budget. The President's fiscal year 1992 budget for the Chapter 2 State and local program is \$448,914,000.

Implementation

- o Under the amended statute, one-half of a State's Chapter 2 funds (rather than the current maximum of 20 percent) would be retained at the State level, so that reform projects of truly significant size and scope can be implemented.
- o The use of Chapter 2 funds, at both the State and local levels, to support the implementation of educational choice programs would be explicitly authorized.

Parental Choice and Chapter 1Program

- o The bill would amend Title I, Chapter 1 of the Elementary and Secondary Education Act, to ensure that the largest Federal elementary and secondary education program does not impede the exercise of educational choice. Under the bill, Chapter 1 services would "follow the child" who enrolls in a new school or district under a local choice program.

Funding

- o This proposal would be budget neutral. The President's fiscal year 1992 budget for the Chapter 1 Basic Grants program is \$5,676,750,000.

Implementation

- o The bill would require that a local educational agency provide Chapter 1 services to any child who is participating in an educational choice program and who, in the absence of the choice program, would receive Chapter 1 services.
- o Services to students enrolling in different schools would be made available by the local educational agency, either directly or through contracts or other arrangements.
- o If the local educational agency were to determine that it is not feasible to make services available to a particular child, it would provide the parents of that child with a grant. The grant would be equal to the child's share of Chapter 1 funds and would be used for the purchase of compensatory education services from a qualified agency or organization.

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- o The bill would clarify that Chapter 1 funds may be used to pay the transportation costs of children receiving Chapter 1 services and participating in educational choice programs.
- o Finally, the bill would ensure that parents of Chapter 1 children in districts with educational choice programs receive a full explanation of the compensatory education options available to their children.

Assistance for Parental Choice Programs

Program

- o Expansion of educational choice is one of the most important concepts that communities seeking to reform education can embrace. Localities that implement choice programs deserve national support and encouragement.
- o To provide that support, the bill would authorize payments to local educational agencies that have implemented programs in which parents are permitted, and given sufficient financial incentives, to select among a variety of public and private educational programs.

Funding

- o The bill would authorize \$200 million for fiscal year 1992 and "such sums" for the four succeeding years.
- o Local allocations would be determined on the basis of local educational agencies' shares of Chapter 1 compensatory education grants. No local allocation could exceed the product of the State's per-pupil expenditure for education and the number of children given the opportunity to participate in the local choice program.

Implementation

- o At the local level, funds could be used for educational services to students that supplement the services provided with State and local resources.

Educational Choice Programs of National Significance

Program

- o The Secretary would identify approaches that show potential for expanding educational choice. Funds would be provided for planning, operating, and evaluating those approaches.

Funding

- o The program would be authorized at \$30 million for fiscal year 1992 and "such sums" for the 4 succeeding years.

Implementation

- o Local and State educational agencies and other applicants would compete for the opportunity to demonstrate approaches identified by the Secretary.

more

(OVER)

- o All projects would be carefully evaluated and their results disseminated.

National Assessment of Educational Progress

Program

- o Currently, State-representative assessments are authorized for the National Assessment of Educational Progress only on a trial basis through 1992. The availability of State-representative data in all five core subjects would help monitor progress toward the National Goals. Therefore, the bill would authorize annual State-representative assessments beginning in 1994.

Funding

- o Funding for the National Assessment is included within the total authorized for the activities of the National Center for Education Statistics. The President's fiscal year 1992 budget for the National Assessment is \$28,086,000.

Implementation

- o Beginning in 1994, State-representative assessments would be conducted annually. Assessments in reading, writing, mathematics, science, U.S. history, and geography would be conducted at least once every 4 years.
- o To encourage all States to participate in these voluntary State-representative assessments, the Federal Government would pay the costs in excess of \$100,000 required by each State for personnel to administer the tests and to coordinate the testing in the State.
- o Beginning in 1994, the tests used in the National Assessment of Educational Progress would be made available to States that wish to use them for testing at school or district levels at their own expense.

National Commission on Time, Study, Learning, and Teaching

Program

- o If the American educational system is to make real improvements, we must rethink many of our basic conceptions about how schools operate. In order to provide for a thorough analysis of a range of critical issues, the bill would authorize creation of a National Commission on Time, Study, Learning, and Teaching.

Funding

- o The bill would authorize a total of \$1 million for fiscal years 1991 and 1992 to support the activities of the Commission.

more

Implementation

- o The Commission would address such issues as the length of the school day and year, the use of time during the school day, and the extent and role of homework.
- o The Commission would submit a final report of its findings and recommendations within 1 year of its creation.

Regional Literacy Resource CentersProgram

- o Regional Literacy Resource Centers would provide technical assistance to adult literacy providers and encourage the coordination of literacy services in the States.

Funding

- o The bill would authorize \$5 million in fiscal year 1992 and "such sums" for the succeeding 3 years for this activity.

Implementation

- o The Centers would carry out such activities as providing training and technical assistance to literacy instructors, disseminating information on innovative curricula and educational technologies, and encouraging public-private partnerships for the advancement of adult literacy in the States.



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

The Honorable Dan Quayle
President of the Senate
Washington, DC 20510

May 3, 1991

Dear Mr. President:

Enclosed for the consideration of the Congress is a draft bill "To enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served," together with a section-by-section summary of its provisions. Upon enactment, it would be cited as the "Community Opportunity Act of 1991".

Despite substantial numbers of government and private assistance and service programs, many individuals and families continue to live in poverty and dependency. All too often, Federal domestic programs are directed at particular problems, provide a narrow range of services and assistance, and contain eligibility and benefit rules based on the specific goals of each program. Therefore, no program fully addresses the multiple needs of an individual or family in escaping from dependency. There is no accountability across the service system for the system's results, and few programs are accountable to the people they serve.

We must do a better job of offering low-income individuals and families an opportunity to participate in the economic and social mainstream of American life. I believe that communities, as well as individuals and families, can increase economic opportunity and self-sufficiency if we can clear away the tangled underbrush of federal categorical program requirements.

The "Community Opportunity Act of 1991" will enable American communities to demonstrate innovative systems to increase the economic opportunities of their low-income residents. Communities which can join in a cooperative effort involving low-income residents, relevant units of government at all levels, and the private sector will have an opportunity to restructure programs and benefits to meet their identified needs and priorities. Community opportunity systems will have clear measurable goals and objectives and will offer individuals and families in those communities the maximum choice and control over the range, source, and objectives of the benefits and services they receive.

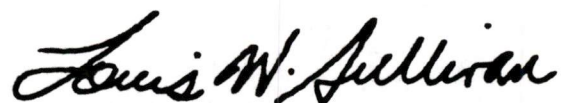
Toward these ends, the bill authorizes the waiver of Federal statutory and regulatory requirements which would impede implementation of a promising community opportunity system. However, the approved system must be designed to assure that individuals and families in the target group who were previously assisted under one or more of the included programs will be able to reasonably meet the need for which those programs were originally designed. The system may include any Federal program except those in which the Federal Government pays cash benefits directly to individuals and families, where Federal benefits are financed from trust funds, or the mandatory portions of State Medicaid programs.

It is our firm belief that there is untapped creativity both at the community level and among the individuals who are served by the programs. By giving them the latitude to restructure programs, to make choices, and to control the implementation of programs in their community, we will all be better served and our fiscal resources more effectively employed.

Therefore, we ask that the Congress give its prompt and favorable consideration to the enclosed draft bill.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

A handwritten signature in black ink, reading "Louis W. Sullivan". The signature is written in a cursive, flowing style with a large initial "L".

Louis W. Sullivan, M.D.

"Community Opportunity Act
of 1991"

Section-by-Section Summary

The first section of the draft bill gives its short title, as stated above.

Purpose; Federal Administrator

Section 2(a) of the bill states its purpose: to declare the need for new community level approaches to increase economic opportunity and opportunities for self-sufficiency, through restructured local delivery systems that --

1. allow the integration and restructuring of services and benefits to improve the economic opportunity of low-income individuals and families;
2. are locally based with specified target groups;
3. allow for target group participation in the design and implementation of the system; and
4. afford maximum choice and control to those in the target group.

Subsection (b) describes the mechanism for administration at the Federal level. The President will designate an official or a group to act as a panel (in either case referred to as the "Federal administrator") to serve as a focal point for the receipt and approval of applications to operate a community opportunity system and thereafter to exercise lead responsibility as the project continues. The Federal administrator will consider the project application, and whether it meets all applicable criteria for approval, and with respect to inclusion of programs (and waiver of statutory and regulatory requirements) for which another Federal official has administrative responsibility, will make recommendations to that other Federal official.

Technical Assistance

Section 3(a) authorizes any agency eligible to submit an application to operate a demonstration system under the Act to request technical assistance to develop the information necessary to design a restructured system. The application is submitted to the Federal administrator, containing some detail about its proposed system (in order to determine the value of providing technical assistance). The application must assure that the target groups will be given an opportunity to participate in designing the system that will be the subject of the application under section 4. The Federal administrator may request the

Federal agency likely to have the preponderance of the programs included in the applicant's system to furnish technical assistance. It may be funded from any amounts available to the agency head to the extent he concludes it is likely to promote the success of the system.

Community Opportunity Systems

Section 4(a) defines an agency that is eligible to submit an application to operate a community opportunity system. It must be currently receiving or eligible to receive Federal assistance under a program to be included in the system. It must also document the concurrence of any other non-Federal entity to which the funds under any included program would otherwise be given. This would include the State (in the case of programs for which the authorizing statute requires making grants to States), as well as any intermediate grantees between the State and the ultimate beneficiary. The applicant must also assure that it has the ability to design and carry out the system, that it will be accountable for Federal funds, and that low-income individuals and families in the target groups have participated in developing the system for which approval is sought.

Subsection (b) requires the application to describe:

1. the geographic area to be served by the system;
2. the target groups included in the demonstration;
3. the way in which the system will improve the target groups' economic opportunity and self-sufficiency, including the goals and performance levels to be achieved under the system and a plan for their measurement and comprehensive evaluation;
4. the way in which the individuals and families will be enabled to participate in the long and short range plans for all aspects of the provision of services and other benefits;
5. the Federally funded programs to be included in the system, and the services and benefits (and eligibility criteria) under the system;
6. the Federal statutory or regulatory requirements for which waivers are requested;
7. the fiscal control and accountability procedures to be applied; and
8. any other information which the Federal administrator needs to decide whether to approve the application or

to carry out any of his other responsibilities under the Act.

Subsection (c) states that the concurrence in the application of entities that would otherwise be grantees constitutes their consent to pay to the applicant agency that portion of the program funds that would benefit the target groups within the community served by the system. The application must describe, however, the source of the non-Federal share which is required by the statutes that authorize programs to be included in the system.

Subsection (d) authorizes the Federal administrator, as a prerequisite to approval of an application, to request a statement by the Attorney General of the relevant State that the applicant has authority under State law to take all the actions necessary to implement the system.

Approval of Application

Section 5(a) directs the Federal administrator to furnish a copy of each application received to the head of any Federal department or agency with a program proposed for inclusion within the applicant's system. Before approving the application, the Federal administrator will make recommendations regarding the approval of programs proposed by the applicant for inclusion in the system, and regarding related waivers, to the Federal officials with responsibility for those programs. The Federal administrator (and each other Federal official) may, with respect to programs for which each is responsible, approve the inclusion of a program and waive any statutory or regulatory requirement if necessary for the implementation of the system, and may substitute a lesser requirement where appropriate (in effect, waive the requirement in part, rather than completely).

Subsection (b) allows approval of the application only upon the Federal administrator's finding that the system is likely to improve the economic opportunity of the target groups to be served. However, in no event may he approve an application unless he concludes that under the restructured system, the target group members who were previously beneficiaries of an included program will be reasonably able to meet the needs for which those included programs were designed. Also, authority under the Act cannot be exercised so as to cause total obligations or outlays for all discretionary programs included in a system, or for all direct spending programs included in a system to increase in any year over what they would have been in the absence of this Act.

Subsection (c) provides that upon approval, the Federal administrator must specify the agreements reached with the applicant on the following:

1. the demonstration's term, which may be extended by mutual consent;
2. the Federally-funded included programs, except the system cannot include any program of benefits paid directly to the individual by the Federal government, Federal benefits financed from a trust fund, or medical assistance which a State is required to provide under title XIX of the Social Security Act;
3. the waivers granted (and any lesser requirements that may have been substituted), but the Federal administrator (or other Federal official) may not waive any requirements under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or the Age Discrimination Act of 1975, nor may they waive any required non-Federal share. Further, they may waive program requirements only where it will not unnecessarily adversely affect the individual, and may not impose confidentiality requirements that would impede the necessary flow of information between various points within the system;
4. the total Federal cost of the demonstration (or an agreed upon method for ascertaining the cost); and
5. the data that will be collected for the comprehensive evaluation of the system, and for the measurable performance criteria applicable over the term of the demonstration.

Exclusivity of System as Source of Services and Benefits

Section 6 limits individuals and families in the target group to be served under a system to receiving services and benefits under an included Federal program only through that system.

Evaluation and Modification

Section 7(a) requires the non-Federal administering agency to do everything necessary to carry out its evaluation responsibilities, and to cooperate with the Federal administrator in any Federal evaluation or other review. Within 30 days after the close of each 12 month period that the system is in operation, the administering agency must submit a report summarizing the system's principal achievements and comparing them to the agreed upon performance criteria.

Subsection (b) provides that if the Federal administrator, after consulting with each other affected Federal department and agency head, finds a substantial failure of the system to meet the performance criteria, he may terminate the demonstration, after allowing a reasonable period for all relevant entities to resume administration of the individual programs previously included in the system.

Reports; Extension of Authority for Successful Systems

Section 8(a) requires the non-Federal administering agency to submit interim and final reports, and cooperate in audits. If the agency believes that its system was successful in achieving the objectives of the Act, it may submit its final evaluation and report prior to the expiration of the demonstration's term, and request its extension. The Federal administrator (and the other Federal officials with included programs) may, if it appears warranted, agree to extend the approval, and the necessary waivers, for an appropriate period.

Subsection (b) requires that a copy of the final report be sent to the Governor.

Definitions

Section 9 defines the following terms:

1. "State" means the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands,
2. "agency" and "applicant agency" include the governing organization of an Indian tribe (as defined by the Federal administrator) and include any State or local agency, and
3. "Governor" means the chief elected official of the State.

A B I L L

To enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Community Opportunity Act of 1991".

Purpose; Federal Administrator

Sec. 2. (a) It is the purpose of this Act to declare the need and provide the necessary authority for the development of new approaches to increase economic opportunity and opportunities for self-sufficiency, implemented through restructured delivery systems at the community level, so that in the case of each system --

(1) services and benefits for low-income individuals and families funded under categorical or other single or limited purpose Federal programs, can be integrated and restructured at the community level, through the increased discretion and flexibility afforded to the community by this Act, to increase the economic opportunity and self-sufficiency of those individuals and families;

(2) the system is neighborhood or community based, with a specified target group or groups of beneficiaries;

(3) the individuals and families to be served can participate in the design and implementation of the comprehensive system for the delivery of services and benefits; and

(4) the delivery system affords individuals and families in the target group of beneficiaries the maximum choice and control over the range, source, and objectives of the services and benefits to be provided.

(b) In order to provide a single focal point for the administration at the Federal level of government of the authorities provided under this Act, the President shall designate an official of the Executive Branch, or two or more such officials to act in concert as a panel. The designated official or officials (hereafter referred to as the "Federal administrator") shall exercise the authorities conferred below, in consultation with all heads of Federal departments and agencies having programs that an applicant agency seeks to include in its restructured system, and shall make a recommendation to each such department or agency head with respect to approving the inclusion of a program for which such department or agency head has legal responsibility, or the waiver of any Federal statutory or regulatory requirements applicable to that program.

Technical Assistance

Sec. 3. An agency eligible to submit an application under section 4 to conduct a demonstration may request, through the

Federal administrator, technical assistance to aid in the development of the information necessary for the design and implementation of a restructured system for the integrated provision of services and benefits to low-income individuals or families within one or more communities in the State. Assistance under this section may be provided only upon application therefor which describes, in such detail as the Federal administrator finds appropriate, the nature of the system which the applicant proposes to implement and the target group or groups. The application must also provide reasonable assurances that in the development of the application under section 4 the applicant agency will afford adequate opportunity for participation by the low-income individuals and families, and by any agency carrying out a human services program, within the community and that the application will be developed only after considering fully the needs for services and benefits expressed by individuals and families, and the community priorities and available resources in the area served by the applicant agency.

(b) The Federal administrator may request that the head of the Federal department or agency with the preponderance of Federal funds or Federal programs likely to be included in the applicant's system furnish technical assistance to the applicant. The department or agency head may, out of any appropriations available to him (or to his department or agency), provide such assistance to the extent that he finds it will enhance the

application and, ultimately, the successful conduct of the applicant's demonstration.

Community Opportunity Systems

Sec. 4. (a) In order to be eligible to submit an application under subsection (b), an agency --

(1) must --

(A) be currently receiving or eligible to receive Federal grant funds or other Federal financial assistance under one or more of the Federally funded programs proposed in the application to be included in the restructured system, and

(B) provide documentation of the concurrence of each other non-Federal official or entity to which the Federal funds involved would otherwise be provided (either directly or through intervening levels of grantees or other recipients) and demonstrate that it will have the cooperation of each such non-Federal official or entity in the applicant's implementation of the system, and

(2) must provide assurance, found adequate by the Federal administrator, that --

(A) it has the ability to develop a community opportunity system and to implement the system, directly or through contractual or other arrangements, within a defined geographic area,

(B) it will implement effective fiscal control and related procedures in order to account for all Federal funds received for use in implementing the system, and

(C) the low-income individuals and families within the geographic area in which the demonstration will be conducted have participated in the development of the system described in the application.

(b) In order for an agency to implement a system under this Act, it must submit an application to the Federal administrator, which contains the following information:

(1) the geographic area to be served and the rationale, in light of the goals of the community opportunity system to be conducted in that area, for so defining the service area;

(2) the particular groups, by age, services needs, economic circumstances, or other defining factors, to whom services and benefits under the system will be targeted;

(3) the way in which the system will increase the economic opportunity and self-sufficiency of the members of the target groups within the geographic area to be served, the specific goals and performance levels to be achieved (and how the demonstration is expected to attain those goals and performance levels), how those performance levels will be measured, and a plan for the comprehensive evaluation of the impact on participants, community effects, and program costs;

(4) those elements of the program design that will assist the individuals and families, after receiving full information about available services and benefits and the providers, to participate actively in developing both long and short range plans for services and benefits, and in deciding other matters such as (A) the scope of services necessary and desired to meet the full range of the individual's or family's needs, (B) the choice of provider, and (C) any other choices affecting the service design for that individual or family;

(5) the Federally funded programs to be included within the system and the services and benefits that will be available, including criteria for determining eligibility for services and benefits under the system, the services available, the amounts and form (such as cash, in-kind contributions, or financial instruments) of non-service benefits, and any other descriptive information the Federal administrator may find necessary to decide on the system's potential for success;

(6) any Federal statutory or regulatory requirement applicable to a Federally funded program, for which waiver is sought in order to permit the applicant's system to be implemented;

(7) the fiscal control and related accountability procedures applicable to the system; and

(8) such other information as the Federal administrator may require to determine whether the application should be approved or otherwise to carry out the provisions of this Act.

(c)(1) In the case of Federal funds which, pursuant to the relevant authorizing statute, are required to be paid to a non-Federal official or entity other than the applicant, the concurrence of the official or entity, as required under subsection (a)(2)(C), shall constitute its consent for the appropriate Federal official to pay directly to the applicant that portion of its funds that would otherwise be provided to such official or entity for the target group or groups within the geographic area to be served by the system.

(2) If the statute authorizing any such grant funds requires a non-Federal share, the application must describe, and provide assurance of the availability of, the requisite non-Federal funds with respect to all included Federal grants.

(d) The Federal administrator may request, in order to determine whether an application should be approved, that the applicant provide a statement by the Attorney General of the State involved that there is authority under State law for the applicant agency to take all actions described in its application and implement the community opportunity system.

Approval of Application

Sec. 5. (a)(1) Upon receipt of an application to implement a community opportunity system, the Federal administrator shall

provide a copy to the head of any Federal department or agency with responsibility for the administration of any Federally funded program to be included in the applicant's system. Actions taken by the Federal administrator to approve the inclusion of specific programs, or to waive program requirements, shall only be taken with respect to programs for which he has responsibility under Federal law; he shall make recommendations to each department or agency head with respect to programs of the department or agency that are proposed for inclusion in the applicant's system and each such department or agency head shall thereafter advise the Federal administrator whether the program has been approved for inclusion.

(2) Except as provided in subsection (c)(3), the Federal administrator with respect to a Federally funded program for which he has responsibility, or the head of any Federal department or agency with respect to a program included in an application for which he has responsibility, may waive any statutory or regulatory requirement applicable to that program (and substitute a lesser requirement, where appropriate) if he finds it necessary for the program's inclusion in and successful contribution to the applicant's community opportunity system.

(b)(1) The Federal administrator may approve an application under this Act only if he finds that the design of the system, and the proposed plan for its ongoing operation, show substantial promise for the improved economic opportunity of the target

groups to be served and the achievement of the purposes of this Act.

(2) The Federal administrator may not approve an application under this Act unless he finds that under the restructured system individuals and families in the target groups who were previously assisted under one or more of the included programs will be able to reasonably meet the needs for which such included programs were originally designed.

(3) The authority provided by this Act shall not be exercised in a manner that, with respect to any community opportunity system, increases total obligations or outlays of discretionary appropriations for programs included in the system, or that increases total obligations or outlays of funding for all direct-spending programs included in such system, for any fiscal year over those that would have occurred absent the authority provided by this Act.

(c) In approving the application to implement a community opportunity system, the Federal administrator shall specify the understandings that have been reached with the applicant on each of the following:

(1) the term of the demonstration, which may be extended with the consent of all parties,

(2) the Federally funded programs that will be included in the system, except that there shall not be included in any such system Federal benefits paid directly to the individual by the Federal Government, Federal

benefits financed from trust funds, or any medical assistance which a State is required under title XIX of the Social Security Act to provide as a condition to the approval of its State plan,

(3) the program requirements that have been waived, and the requirements or conditions, if any, that have been substituted pursuant to subsection (a)(2), except that the Federal administrator (or other department or agency head) --

(A) may not waive any statutory or regulatory requirement under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or the Age Discrimination Act of 1975,

(B) may not waive any requirement for a non-Federal share of funding for a Federal program included in the system,

(C) may waive a program requirement only if he finds that its waiver will not unnecessarily or unreasonably adversely affect individuals or families, and

(D) shall not impose any confidentiality or similar requirement which would impede the exchange, within the system, of information needed for the design and delivery of integrated services and benefits,

(4) the total Federal cost of the program over its full term (or mechanism for determining the total Federal cost), the amount that will come from each Federal program approved for inclusion in the system subject to the availability of Federal appropriations, and the source of the required non-Federal share, and

(5) the data to be collected during the term of the demonstration to permit its comprehensive evaluation, including the application of measurable performance criteria over the term that the system is in operation to assess the extent to which the stated goals and performance levels are being achieved.

Exclusivity of System as Source of Services and Benefits

Sec. 6. Any individual or family within a designated target group of a community opportunity system shall not be eligible for services or benefits under any included Federal program except under the terms and conditions of the approved application for that system.

Evaluation and Modification

Sec. 7. (a) Over the term of each community opportunity system under this Act, the non-Federal administering agency shall take all actions necessary to evaluate the system's impact on the target groups specified in the application, community effects, and program costs, and shall cooperate with the Federal administrator in Federal evaluation or other review. In addition, the non-Federal administering agency shall submit to

the Federal administrator, not later than 90 days after the close of each 12-month period during which the demonstration is conducted, a report summarizing the principal activities and achievements of the system during that period, and comparing its achievements to the measurable performance criteria agreed upon in the application.

(b) If the Federal administrator determines, after consultation with each Federal department or agency head having Federal funds included in the applicant's system, that there is a substantial failure to meet the specified goals and performance levels, and that they remain sound in light of any experience gained to that point in the conduct of the demonstration, he may terminate the demonstration, allowing a reasonable period or periods of time for all affected Federal, State, and local agencies to resume, in an orderly and effective fashion, the administration of the various included programs in accordance with the applicable authorizing laws and regulations thereunder.

Reports; Extension of Authority
for Successful Systems

Sec. 8. (a) The non-Federal administering agency implementing a community opportunity system shall submit such reports, at such time or times, and cooperate in such audits of Federal funds, as the Federal administrator may require, and shall submit a final report, including a full evaluation of the system's successes and shortcomings and the impacts on the self-sufficiency of the target groups, after the expiration of the term of the system. If the agency concludes that the system has

demonstrated its worth and has proven a superior way to assist individuals and families, that agency may submit its final evaluation and reports prior to the expiration of the system's term and request, and the Federal administrator may approve (with the concurrence any Federal department or agency head having responsibility for a Federal program included in the demonstration, with respect to such program) for such period or periods as he finds appropriate, the extension of the system and the necessary waivers.

(b) A copy of the final report shall be promptly sent to the Governor of the State involved.

Definitions

Sec. 9. As used in this Act --

(1) the term "State" means the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands,

(2) the term "agency" or "applicant agency", when not referring to a Federal entity, includes any State or local agency, and such term also includes the governing organization of an Indian tribe (as defined by the Federal administrator), and

(3) the term "Governor" of a State means the chief elected official of the State.

A BILL

To authorize demonstrations of innovative methods to simplify existing programs of assistance for low-income families and individuals and increase their economic self-sufficiency through improved work opportunities, to afford States and localities the necessary flexibility to streamline programs and reduce duplicative, excessive, and inefficient expenditures, to establish an Interagency Low-Income Opportunity Board, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Low-Income Opportunity Improvement Act of 1987".

Sense of the Congress

Sec. 2. (a) The Congress finds that --

(1) the current system of programs providing assistance to low-income individuals and families inefficiently assists those who cannot meet their own needs;

(2) the current system discourages work when it provides more income than recipients can earn in the kinds of jobs in which they start their working careers; and

(3) reforms are impeded by the many fragmented yet overlapping programs that address the needs of low-income people.

(b) It is the sense of Congress that --

(1) individuals should meet basic living requirements first through their own efforts, then through family, neighborhood, and community support, and finally through public assistance;

(2) an employable individual should seek and accept employment as a condition of public assistance and should not be able to better his financial condition by choosing public assistance as an alternative to employment; and

(3) State and local governments can most effectively assess individual needs and should have flexibility to address all aspects of the current system of providing low-income assistance, including determination of appropriate assistance levels and allocation of public resources, through experimentation with innovative programs providing, in a restructured and simplified manner, assistance to those for whom other resources are inadequate.

Title I - State Demonstrations

Part A - Submission and Certification of Filings

Filing to Conduct Demonstration

Sec. 101. In order to conduct a demonstration in accordance with the provisions of this title, a State shall submit a filing, consistent with the requirements of this part, to the Interagency Low-Income Opportunity Board established pursuant to title II of this Act (hereinafter referred to as the "Board").

Responsibility of Board

Sec. 102. (a) The Chairman (appointed pursuant to section 201(a) of this Act), in consultation with the Board, shall have continuing responsibility for the certification and evaluation of each demonstration conducted pursuant to this title, and shall perform, with advice and assistance from such other Federal departments and agencies as may be appropriate, such other functions as are required to implement the demonstrations.

(b) The Chairman and the Board, in exercising their responsibility with respect to the certification and evaluation of each demonstration conducted pursuant to this title, shall consider the following policy goals:

(1) to insure that public assistance is an adequate supplement for other resources in meeting essential needs;

(2) to focus public assistance resources on efforts to reduce future dependency on public assistance;

(3) to individualize determinations of need for public assistance, and to make such determinations, to the extent possible, through local decisions;

(4) to provide public assistance only to those in need and only to the extent of that need;

- (5) to make work more rewarding than welfare;
- (6) to require that those who are able to work do so for their public assistance benefits;
- (7) to encourage the formation and maintenance of economically self-reliant families;
- (8) to require public assistance recipients to take greater responsibility for managing their resources, and to encourage community-based administration of public assistance;
- (9) to create opportunities for self-reliance through education and enterprise; and
- (10) to reduce the future costs of public assistance by reducing the need for it.

Content of Filing

Sec. 103. (a) A filing to conduct a demonstration under this title may include --

(1) any Federal or federally assisted program a purpose of which is alleviate poverty or the effects of poverty and under which --

(A) the amount of income or assets of the individuals, families, or other groups of program beneficiaries is considered in determining their eligibility for or amount of benefits or services under the program, or

(B) the basis for allocating Federal funding among States or other eligible grantees includes consideration of the size of the low-income population within the jurisdiction served by the grantee, and

(2) any nonfederal public program operated within the State which is designed to alleviate poverty.

(b) A filing shall be submitted by the Governor or his designee, and shall describe in detail the demonstration to be conducted, with particular reference to --

(1) the program or programs to be included in the demonstration;

(2) the classes of individuals and families who will be eligible to participate;

(3)(A) the principles for determining eligibility for and maximum total benefits under the programs included in the demonstration, including income and asset limits to be applied, the form or forms in which benefits are to be provided (such as cash, in kind, vouchers, insurance, or services), and the dollar value to be assigned to benefits to be provided in a form other than cash; and

(B) information sufficient (i) to demonstrate that benefit levels will be adequate to allow individuals and families to reasonably meet the needs previously addressed by the programs included in, but superseded by, the demonstrations, when such benefits are used to

supplement individual, family, and community resources, and (ii) to reasonably assure that the demonstration will not adversely affect those in need;

(4) the way in which the demonstration is expected

(A) to improve low-income individuals' and families' opportunities and abilities to achieve economic independence through employment, (B) to improve the functioning of low-income communities in support of the efforts of such individuals and families to attain independence, and (C) to improve the efficiency and effectiveness of the programs included in the demonstration.

(c) The filing shall specify the employment-related activities, such as job search, and work and training activities designed to directly improve employability, that will be required of individuals receiving assistance under the demonstration, and the circumstances in which such individuals will not be required to participate in such activities.

(d) The filing shall also --

(1) specify the geographic area or the political subdivisions within which the demonstration will be conducted and designate the agency responsible for the day-to-day conduct of the demonstration;

(2) describe steps that will be taken to make the information required by subsections (b) and (c) readily available to the public in the geographic areas or political subdivisions affected;

(3) specify the time period during which the demonstration will be conducted and the reasons that such period was selected;

(4) specify the laws or parts thereof, and the regulations thereunder or parts thereof, applicable to any Federal or federally assisted program to be included in the demonstration for which waiver is requested;

(5) describe a plan for evaluating the results of the demonstration, including (A) the way in which provision has been made by the State for the use of control or comparison groups to assess the extent to which dependency on welfare has been reduced in excess of the reduction that would have occurred in the absence of the demonstration or, if the use of such groups is infeasible, the alternative methods that will be adopted to obtain measurable results during and after the completion of the demonstration, and (B) the measures that the State proposes for use in assessing the extent to which dependency on welfare and other programs serving low-income populations has been reduced;

(6) contain a budget setting forth the amounts and sources of funding for the demonstration (including Federal funds that would have been made available under

the programs included in the demonstration, determined in accordance with section 104(a)), and nonfederal funds that would have been required in order to obtain such Federal funding under the rules of the programs to be included in the demonstration, and any other sources;

(7) provide for the conduct of audits in accordance with the provisions of chapter 75 of title 31, United States Code; and

(8) contain an agreement to submit an annual report and to cooperate as necessary for the Board's review and evaluation of the demonstration.

The agency designated in paragraph (1) may conduct the demonstration directly, or may do so, in whole or in part, through grants to or contracts with public or private agencies, or individuals, but the Governor must in any case retain final responsibility for compliance with all requirements imposed by or pursuant to this title, or with actions agreed to by the State in its certified filing.

(e) The filing shall describe the procedures for determining the initial and continuing eligibility of, and benefits for, individuals and families, and all administrative and fiscal procedures to be applied in the conduct of the demonstration. These procedures must insure that all eligibility and benefit amount standards will be accurately applied and that funds under the demonstration will be expended consistent with principles of sound fiscal management. Such procedures may be the same as those already

applicable to a program included in the demonstration, or may differ in whole or in part from currently established procedures, but must clearly and reliably assure responsible program administration.

Certification of Demonstration;
Waiver of Inconsistent Requirements

Sec. 104. (a)(1) Prior to certification by the Chairman of the filing, the head of each Federal department or agency with responsibility for a program to be included in the demonstration shall, with respect to each such program (or part of a program), estimate the amount of Federal funds that would, but for the demonstration, be provided to the State, or an entity within the State eligible to receive such funds, to operate such program (or part of a program) during each fiscal year that the demonstration is in effect and the amount of nonfederal funds that would be required in order that the State be eligible for such Federal funds. Each Federal department or agency head shall provide a statement of the principles and assumptions to be employed in making such estimates, including, in the case of any programs with respect to which the department or agency head has discretion in the provision of funds, the recent experience of such State (or grantees or contractors within the State) with respect to fund awards under such program. The principles and assumptions shall be consistent with all Federal laws and regulations applicable to the programs, and the funding of

those programs, as in effect at the time the estimates are made. The amounts and the principles and assumptions shall be reported to the Board.

(2) The State shall provide to the Board a statement of the principles and assumptions it employed in developing its budget and funding levels referred to in section 103(d)(6).

(b) The Chairman shall determine whether the funding determined by the Federal agency heads referred to in subsection (a)(1), and the budget and underlying principles and assumptions described in subsection (a)(2) as submitted by the State, are consistent and are adequate to carry out the demonstration. If so, the Chairman shall approve the amount and sources of funding for the demonstration and, with the concurrence of the State, that funding shall be deemed to be included in the budget contained in the filing.

(c) If, during any fiscal year that the demonstration is in operation, the Federal laws or regulations under which such funding is authorized or provided are amended, or new Federal law applicable to any such program is enacted (or new regulations adopted), the Chairman shall adjust the amounts reflected in the budget in accordance with applicable Federal law and regulations and the principles and assumptions referred to in subsection (a). In any event the budget shall be reviewed and revised, in accordance with such principles and assumptions and all currently applicable Federal law and regulation, not less frequently than annually.

(d) The amount approved by the Chairman pursuant to subsection (b), or the revised amount adopted pursuant to subsection (c), shall be the amount of Federal funds available for carrying out the demonstration in any fiscal year.

(e) The Board shall establish a schedule pursuant to which payments will be made by each agency responsible for the administration of a program included in the demonstration from the funds appropriated to carry out such program.

(f) Notwithstanding the preceding provisions of this section, if it is determined at any time that the State received, prior to the commencement of the demonstration, an amount of Federal funds under any program included in the demonstration in excess of the amount to which it was entitled, or which it should have received, by reason of the application of any provision regarding erroneous expenditures under the program or because of overpayment by the Federal Government to the State for any other reason, the amount which the State would otherwise receive to carry out the demonstration shall be reduced to the same extent and in accordance with the same procedures that would have been applied had the State continued to operate, apart from the demonstration, the program in which the overpayment is determined to have been made.

(g) The Chairman may establish a single nonfederal share requirement for each year for purposes of accounting for funds expended under each demonstration. Such share

shall be established on the basis of the relative proportion of Federal and nonfederal funds contained in the demonstration budget. The Chairman shall also establish a single set of technical grant or contract requirements applicable to the conduct of the demonstration.

(h) Notwithstanding any other provision of law, to the extent that the amount of Federal funds necessary to carry out the demonstration, either for assistance to individuals or families, or for the costs of administration, is less than the amount contained in the budget by reason of the effectiveness of the demonstration in achieving the objectives of this Act, no adjustment shall be made in amounts payable to the State for such demonstration, and the State may treat such Federal funds as reimbursement for expenditures properly made by the State under the programs concerned, to the extent that such funds are used by the State to improve the demonstration or otherwise benefit individuals and families included in the demonstration.

(i) If as described in the filing --

(1) the proposed demonstration is structured to permit sound evaluation of the effectiveness of the demonstration in meeting the objectives of this Act,

(2) the rights of individuals and families under title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1973, title IX of the Education

Amendments of 1972, title VIII of the Civil Rights Act of 1968, and all other applicable law prohibiting discrimination, will be protected, and

(3) all requirements of this title, including the budget, are otherwise met,
the Chairman shall then certify the demonstration.

(j) Notwithstanding any other provision of law, the Chairman may waive any law or part thereof, or regulation or part thereof, applicable to a program to be included in the demonstration, the waiver of which is requested by the State, to the extent the Chairman finds such waiver necessary or appropriate to permit the conduct of the demonstration.

(k) The Chairman shall notify the Governor of the State submitting the certified filing of --

- (1) the fact of certification,
- (2) the laws and regulations, or parts thereof, that are waived for the period of the demonstration, and
- (3) the amount of Federal funding that will be available for all included programs, and the schedule of payments.

Exclusivity of Eligibility under Demonstration

Sec. 105. Notwithstanding any other provision of law, if an individual or family is within a class eligible to participate in the demonstration, then any such individual or family shall only be eligible for benefits (whether provided in cash, in kind, in the form of services, or in any other form or manner) under any program included in the

demonstration under the terms and as part of the demonstration (including individuals or families who are ineligible for benefits under the demonstration solely by reason of their income or assets or their failure to comply with a condition of eligibility for benefits under the demonstration.)

Part B - Continued Operation of Demonstrations

Interim Evaluations and Reports; Changes
in Demonstration

Sec. 111. (a)(1) The Board shall, during the period throughout which the demonstrations are conducted under this title, carry out activities appropriate to evaluate the progress and effect of the demonstrations.

(2) The Board shall require a State to submit annual reports on the progress of the demonstration.

(b) If (1) the State determines that an amendment to the demonstration, as described in its filing as originally certified, would improve the likelihood of its accomplishing the objectives of this Act, and (2) the amendment meets all the requirements for certification under this title that applied to the filing as originally certified, the Chairman shall certify the State's amendment to its filing. The Chairman shall notify the State of the effective date of the amendment, the increased Federal and nonfederal funding (if any) that will be made available, determined as provided in section 104(c), and any other matters necessary to implement the amendment without adversely affecting the conduct of the demonstration.

Termination of Project

Sec. 112. (a) If, after the commencement of a demonstration, the Governor of the State concerned determines that the demonstration is not achieving (or is not likely to achieve) the purposes of this title, and that the interests of the Federal Government, the State, or the participating individuals, would be better served by returning to the separate conduct of the included programs, the Governor may terminate the demonstration upon the provision to the Chairman of at least 3 months' advance notice (or such greater advance notice as may be necessary so that the separate conduct of the programs involved will resume at the beginning of a quarter in the fiscal year), or at such other time as the Governor, in consultation with the Chairman, may find appropriate.

(b) If, after the commencement of a demonstration, the Chairman determines that the demonstration is not meeting the conditions certified under section 104(i) of this Act or the applicable laws and regulations not waived in the certified filing, the Chairman may terminate the demonstration upon the provision to the Governor of at least 3 months' advance notice (or such greater advance notice as may be necessary so that the separate conduct of the programs involved will resume at the beginning of a quarter in the fiscal year), or at such other time as the Chairman, in consultation with the Governor, may find appropriate.

Part C - Final Reports

Reports by State

Sec. 121. Not later than 6 months following the completion of a demonstration, the Governor of the State concerned shall submit to the Board a final report containing (1) a review of the demonstration, including both its achievements and its shortcomings, and (2) such other findings, comments, or recommendations as he may deem appropriate to assist in restructuring the Federal programs involved to better achieve the objectives of this Act and serve the needs of their beneficiary populations.

Annual Report to Congress

Sec. 122. The Chairman shall prepare and transmit annually a report to the Congress describing the demonstrations being conducted during the relevant year. The report shall provide information about the interim or final results of the demonstrations, and their success in achieving the objectives of the Act, based on the reports furnished by States conducting demonstrations, and on the data and conclusions contained in interim and final evaluations of these demonstrations.

Title II -- Interagency Low-Income Opportunity Board

Establishment and Mission of Board

Sec. 201. (a) In order to provide a focal point within the Federal Government for the development and coordination of innovative policies and activities to improve

opportunities for low-income individuals and families, and to encourage the provision of assistance by both the public and private sectors in a more effective manner, there is established an Interagency Low-Income Opportunity Board. The Board shall be comprised of a Chairman appointed by and serving at the pleasure of the President, the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, Labor, and the Interior, the Attorney General, and the Director of the Office of Management and Budget (or, with respect to each such official, his designee), as permanent members. In addition, for the purpose of carrying out the Board's responsibilities with respect to a particular filing under title I to conduct a demonstration, or with respect to the certification and evaluation of a particular demonstration, the Board shall include the head of each department or agency (or his designee) having responsibility for the administration of a program to included in the demonstration.

(b)(1) The Chairman shall be compensated at the rate provided for level II of the Executive Schedule.

(2) Section 5313 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairman, Interagency Low-Income Opportunity Board.".

(c) The Chairman is authorized to appoint and fix the compensation of personnel as may be necessary to assist the Board in carrying out its responsibilities, in accordance with chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code.

(d) The head of each Federal department or agency who is a permanent or other member of the Board shall make available to the Board such assistance as it may require to carry out its activities.

(e) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

Title III - Miscellaneous

Definitions

Sec. 301. As used in this Act --

(1) The term "State" means the 50 States, the District of Columbia, Puerto Rico, and any Indian tribe.

(2) The term "Governor" includes the Chief Executive Officer of the District of Columbia, and the federally recognized governing body of an Indian tribe.

(3) The term "Indian tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village, which is recognized as eligible by the United States Government through the Secretary of the Interior for the special programs and services provided to Indians because of their status.

Authorization of Appropriations

Sec. 302. There are authorized to be appropriated for fiscal year 1988 and each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

Effective Date

Sec. 303. This Act shall become effective on enactment.

Section-by-Section Summary of the
"Low-Income Opportunity Improvement Act of 1987"

Short Title

The first section of the draft bill gives its short title, the "Low-Income Opportunity Improvement Act of 1987".

Sense of the Congress

Section 2(a) of the draft bill sets forth the Congressional findings that the current system of programs inefficiently assists low-income individuals and families, discourages work when benefits exceed amounts that recipients could earn as they begin their working careers, and impedes reforms with programs that are both fragmented and overlapping.

Subsection (b) states the sense of the Congress that individuals should be able to meet basic living requirements, first through their own efforts, then through family, neighborhood, and community support, and lastly through public assistance; that an employable person should seek and accept employment and not be better off by choosing public assistance in lieu of employment; and that State and local governments can most effectively assess individual needs, and should have flexibility to address all aspects of providing assistance and managing the system of public assistance programs.

Title I - State Demonstrations

Part A - Submission and Certification of Filings

Filing to Conduct Demonstrations

Section 101 provides that, to conduct a demonstration under title I, a State must submit a filing meeting the requirements of part A, to the Interagency Low-Income Opportunity Board established in title II of the Act (referred to below as the "Board").

Responsibility of the Board

Section 102 (a) gives the Board's Chairman (appointed pursuant to section 201(a), described below), in consultation with the Board, continuing responsibility for certification and evaluation of the demonstrations, and authority to perform all functions required for their implementation, with advice and assistance from other Federal departments and agencies as may be appropriate.

Subsection (b) requires the Chairman and the Board, in exercising their responsibility with respect to the certification and evaluation of the demonstrations, to meet specified policy goals.

Content of Filing

Section 103(a) permits the inclusion in a demonstration of any Federal or federally assisted program a purpose of which is to alleviate poverty and under which an individual's or family's eligibility or benefits are based on their income or assets, or Federal funds are allocated to grantees on the basis (at least in part) of their low-income population, and any nonfederal public program operated within the State and intended to alleviate poverty.

Subsection (b) requires the filing submitted by the Governor to describe in detail the nature and content of the proposed demonstration. Specifically, it must enumerate --

- the program or programs that will be included in the demonstration;
- the classes of individuals and families who will be eligible to participate;
- the principles for determining eligibility, maximum total benefits, income limits, and treatment of assets, and the form (e.g., cash, in kind, vouchers, services, etc.) in which benefits will be provided and the dollar value to be assigned to noncash benefits;
- information sufficient (i) to show that benefit levels will be adequate for individuals to reasonably meet the needs previously met by all the included programs when benefits under the demonstration are used to supplement individual, family, and community resources, and (ii) to reasonably assure that the demonstration will not adversely affect those in need;
- the way that the demonstration will improve (A) low-income individuals' and families' employability, (B) the functioning of low-income communities in support of individual and family efforts to attain economic independence, and (C) the effectiveness and efficiency of included programs.

Subsection (c) requires the filing to describe the work-related activities in which participation will be required, and the exceptions from the participation requirements that will be allowed.

Subsection (d) requires the filing also:

- to specify the geographic areas or political subdivisions in the State in which the demonstration will ~~be~~ conducted, and to designate the agency responsible for its day-to-day conduct;
- to describe the steps by which the eligible classes, included programs, and work requirements will be publicized within the affected areas of the State;
- to specify the time period for which the demonstration will be conducted, and the reasons for selecting that period;
- to specify the laws and regulations applicable to any federally authorized program to be included in the demonstration for which waiver is sought;
- to describe an evaluation plan, including (A) the provision for the use of comparison or control groups to assess the amount of reduction in welfare dependency that is attributable to the demonstration, or if the use of those groups is infeasible, the alternative methods for obtaining measurable results of the demonstrations' effects that will be adopted, and (B) the measures which the State proposes for use to assess the extent to which dependency on welfare and other programs for low-income groups has been reduced;
- to contain a budget detailing the amount (and sources) of funding for the demonstration, including the Federal funds determined under section 104(a) (described below), and the nonfederal matching funds, that would have been available for the programs to be included in the demonstration, and any other amounts and sources of funding;
- to provide for the conduct of audits in accordance with the Single Audit Act of 1984; and
- to contain an agreement to submit an annual report.

The subsection also specifically authorizes the agency to carry out the demonstration itself, or by grant or contract, but requires the Governor to retain final responsibility for all matters covered in the filing.

Subsection (e) requires the filing to describe all procedures pertaining to determining eligibility and benefits, and all administrative and fiscal procedures. The procedures must ensure accurate determinations of eligibility and benefits and the use of sound fiscal management principles. The procedures may be the

same as those currently employed for one or more of the included programs, or may be entirely new, but in any event must clearly assure responsible program administration.

Certification of Demonstration; Waiver of Inconsistent Requirements

Section 104(a)(1) requires that, prior to certification by the Chairman of the filing, the head of each Federal agency responsible for the administration of an included program will estimate the amount of Federal funds that the State (or an eligible entity within the State) would have received under that program for each year of the demonstration, as well as the nonfederal matching funds that would have been required. The agency head will also provide the Board with a statement of the principles and assumptions to be used in making those estimates. The principles and assumptions are to reflect Federal law, including appropriations, and regulations in effect at that time and, in the case of discretionary programs, the recent experience of the State (or grantees or contractors in the State) with respect to fund awards.

Paragraph (2) requires the State to provide a similar statement of the principles and assumptions it used in developing its budget.

Subsection (b) directs the Chairman to determine whether the budget, and underlying calculations, principles, and assumptions, developed by the State and the Federal officials, are consistent, and whether the funding is adequate to carry out the demonstration. If so, the Chairman will approve the sources and amount of funding, and those data will be deemed to be part of the budget submitted by the State.

Subsection (c) directs that, should there be changes in Federal laws or regulations authorizing or funding a program included in the demonstration, the Chairman will revise the budget using the principles and assumptions originally employed. In any event the budget will be reviewed, and revised as necessary, not less often than annually.

Subsection (d) provides that the amount approved by the Chairman under subsection (b), or the revised amount adopted under subsection (c), will be the amount of Federal funds available for the demonstration.

Subsection (e) directs the Board to establish a payment schedule. Payments will be made by each agency responsible for an included program.

Subsection (f) provides that if it is determined, after the commencement of the demonstration, that a State had been previously overpaid under any program included in the demonstration, then the amount that would otherwise (under the

preceding provisions of this section) be made available shall be reduced, in accordance with the procedures applicable to recovery of overpayments under the affected program.

Subsection (g) states that the Chairman may establish a single annual nonfederal share requirement (based on the relative proportion of Federal and nonfederal funds contained in the budget) and shall establish a single set of technical grant or contract requirements.

Subsection (h) provides that if the demonstration costs less to operate than was originally estimated by reason of its effectiveness in achieving the Act's objectives, no reduction will be made in the amount payable to the State and the State may treat the full amount as Federal reimbursement which it properly received, to the extent that those Federal funds are used to enhance the demonstration or otherwise to benefit low-income groups in the demonstration.

Subsection (i) provides that if, as described in the filing --

- the demonstration is structured to permit sound evaluation of its effectiveness,
- the civil rights of individuals and families, under all applicable laws, will be protected, and
- all the requirements described above, including the budget, are met

the Chairman will certify the filing.

Subsection (j) authorizes the Chairman to waive any law or regulation, or part thereof, applicable to an included program, as is requested by the State and found necessary or appropriate by the Chairman to conduct the demonstration.

Subsection (k) requires the Chairman to notify the Governor of --

- the certification of his filing,
- the waivers that have been granted, and
- the amount and schedule of Federal payments.

Exclusivity of Eligibility Under Demonstration

Section 105 provides that any individual or family who is within a class eligible to participate in the demonstration may receive benefits or services provided by an included program only

under the demonstration (i.e., the individual or family may not opt to receive program benefits outside of the rules of the demonstration).

Part B - Continued Operation of Demonstrations

Interim Evaluations and Reports; Changes in Demonstration

Section 111(a)(1) requires the Board, during the life of the demonstration, to carry out appropriate activities to evaluate its progress.

Paragraph (2) of this section provides that the Board must require States to submit annual reports on the progress of the demonstration.

Subsection (b) authorizes the State to make amendments to its original filing to conduct a demonstration under the conditions described below. The Chairman will certify the amendment submitted by the State to improve its demonstration's effectiveness if the amendment meets all the requirements that were applicable to the original filing. The Chairman will notify the State of the effective date, the additional funding, if any, that will be available, and any other matters necessary to implement the change without adversely affecting the demonstration.

Termination of Project

Section 112(a) authorizes the Governor to terminate a demonstration if he finds it is not achieving its purposes or if the interests of the Federal Government or the State, or of participants, would be better served by the operation of the separate programs. Three months' advance notice (or, if greater, notice of sufficient length to have the termination occur at the beginning of a quarter) must be given, or the termination may become effective at any other time the Governor, in consultation with the Chairman, finds appropriate.

Subsection (b) provides termination authority for the Chairman. If he determines that the demonstration is not meeting the applicable requirements of this title, or of the relevant laws or regulations (or parts thereof) that were not waived, then the Chairman may terminate the demonstration. The notice requirements are parallel to those described in the preceding subsection.

Part C - Final Reports

Report by State

Section 121 specifies that the Governor of each State conducting a demonstration must submit a final report to the Board no later than 6 months after the close of the demonstration. The report must include a review of the demonstration's achievements and shortcomings, and whatever other information and recommendations the Governor finds appropriate to assist in restructuring Federal benefit programs to better achieve the purposes of the Act and serve their beneficiary populations.

Annual Report to Congress

Section 122 provides that the Chairman must transmit an annual report to Congress, describing the demonstrations in operation during the year concerned. The report will contain information from the States' interim and final reports, and from the interim and final evaluations of the demonstrations.

Title II - Interagency Low-Income Opportunity Board

Establishment and Mission of Board

Section 201(a) of the draft bill establishes the Interagency Low-Income Opportunity Board. The Board is made up of a Chairman appointed by and serving at the pleasure of the President, and, as permanent members, the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, Labor, and the Interior, the Attorney General, and the Director of the Office of Management and Budget or, with respect to each Secretary, the Attorney General, and the Director, his designee. Additionally, when the Board is acting with respect to a filing that includes a program for which any other department or agency head has responsibility, that Secretary or agency head (or his designee) will be a member of the Board. The subsection states that the Board is established to provide a focal point within the Federal Government for developing and coordinating new policies to aid low-income individuals and families, and encourage the more effective provision of assistance from both the public and private sectors.

Subsection (b) provides that the Chairman will be compensated at Level II of the Executive Schedule.

Subsection (c) authorizes the Chairman to appoint and fix the compensation of personnel necessary for the Board in accordance with specified portions of title 5 of the United States Code.

Subsection (d) directs the head of each Federal department or agency who is a member of the Board to make available such assistance as the Board may require to carry out its responsibilities.

Subsection (e) authorizes the Board to use the United States mails in the manner and under the same conditions as other departments and agencies of the United States.

Title III - Miscellaneous

Definitions

Section 301 specifies that, for purposes of the Act --

(1) "State" means the fifty States and the District of Columbia, Puerto Rico, and any Indian tribe.

(2) "Governor" includes the Chief Executive Officer of the District of Columbia, and the federally recognized governing body of an Indian tribe.

(3) "Indian tribe" means any Indian tribe (or other similar group), or Alaska Native village, recognized as eligible by the United States through the Secretary of the Interior for the special programs and services provided to Indians because of their status as Indians.

Authorization of Appropriations

Section 302 authorizes appropriations, beginning with fiscal year 1988, of such sums as are necessary to carry out the Act.

Effective Date

Section 303 prescribes that the Act becomes effective upon enactment.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

February 26, 1987

TO THE CONGRESS OF THE UNITED STATES:

I hereby transmit for the consideration of the Congress proposed legislation, entitled the "Low-Income Opportunity Improvement Act of 1987," to encourage State-sponsored and community-based demonstrations in public assistance policy.

This legislative proposal is the result of an exhaustive, year-long Administration study of the needs of poor Americans. Hundreds of welfare recipients, former recipients, and self-help and welfare experts were consulted. The study, "Up From Dependency," concludes that our Nation's current welfare system is both inefficient and ineffective in meeting the needs of the poor and in providing opportunities and incentives for economic independence.

Currently our welfare system is a labyrinth of 59 major welfare programs that require some 6,000 pages of Federal regulations and cost more than \$132 billion in FY 1985. Welfare spending has soared since the 1960s, so that today some 52 million Americans, or one in five, benefit from welfare. All told, this spending is more than twice as great as the "poverty gap," or the amount it would take to lift all Americans above the official poverty level. Thus, many Americans who are not poor receive public assistance benefits, even as many others remain in poverty.

The study also found that our current array of welfare programs creates incentives that undermine the willingness to work and become self-reliant. Most welfare recipients say they want to work, but they also say they can often get more on welfare than they can earn in a full-time job. The study found that while current welfare programs provide valuable temporary help to families, that same help replaces the breadwinner and enables young mothers to raise children without fathers.

The study found that by parachuting benefits to individuals from faraway State and Federal capitals, our centralized welfare system also weakens communities. It undermines the implicit social contract among neighbors and neighborhoods that keeps any community peaceful, livable, and productive. Finally, while welfare rescues many Americans from short-term distress, it also mires too many in long-term, unwanted dependency.

I believe we can and must do better. I believe it is time to learn from the mistakes of our centralized welfare system by implementing a new national strategy that stresses grass-roots participation, State and local initiative, and creative ideas for reducing dependency and strengthening economically self-reliant families.

This strategy must build on the enterprise that individuals, communities, and State governments have shown in recent months and years by creating their own alternatives to the current welfare system. Federal legislation enacted since 1980 has given States greater, if still modest, latitude to

more

(OVER)

undertake employment and training programs. The States have responded with reforms that put a premium on reducing dependency and instilling skills and a sense of pride among welfare recipients. This legislative proposal builds on that success by giving States greater flexibility to implement new ideas aimed at reducing welfare dependency. America's 50 States have always been laboratories for creative social change, and this initiative creates a process to tap that creativity.

This proposed legislation also encourages investment in the hundreds of self-help and anti-poverty initiatives now blossoming around the country. In cities and rural areas, thousands of low-income Americans have mobilized to help themselves, their neighbors, and their children. This proposed legislation seeks to assist those efforts by encouraging local leaders to work with the States in creating welfare policies that will work best for their own communities and citizens. The bill recognizes that a single, national solution to the problem of poverty and welfare dependency cannot work for thousands of distinct communities. The proposed legislation encourages diverse solutions for diverse needs and communities.

Toward these ends, the bill authorizes the waiver of certain rules and requirements in Federal programs in order to promote demonstrations of innovative solutions to the problem of welfare dependency, while ensuring that the rights of families and individuals under Federal civil rights and other laws are protected in the demonstrations. The demonstrations offer opportunities to simplify the delivery of public assistance, to increase the self-sufficiency of low-income families and individuals, and to give States and communities greater flexibility to design public assistance policies that seem most appropriate for their own citizens. The waiver applies to any Federal or federally assisted program intended to alleviate poverty and that meet certain other requirements specified in the bill.

The bill also establishes an Interagency Low-Income Opportunity Assistance Board, with a chairman appointed by the President, to certify and evaluate demonstrations proposed by the States. Each State will be required to report annually on each demonstration.

I urge the Congress to act without delay on this important legislative proposal. I am confident that working together we can provide States and communities the means they need to assist low-income Americans in building lives of dignity and self-sufficiency.

RONALD REAGAN

THE WHITE HOUSE,
February 26, 1987.

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Study Sees Problems In Oregon Rationing Of Health Services

By ROBERT PEAR

Special to The New York Times

WASHINGTON, Feb. 24 — A Congressional research agency has criticized Oregon's novel effort to ration health care by ranking all services according to their costs and benefits.

The agency, the Congressional Office of Technology Assessment, said in a confidential draft of a report to be issued this spring that the rankings were largely subjective and would deprive some low-income people of Medicaid services to which they are now entitled.

Over all, the agency, which advises Congress on scientific questions, said it had "serious reservations" about Oregon's project.

Oregon's effort to restrain health costs and improve access to care has attracted more interest and generated more debate than any other state's efforts. It has been cited by Bush Administration officials as an example of the state experimentation that they wish to encourage.

Senator Al Gore, Democrat of Tennessee, has described the debate over Oregon's plan as "the single most important debate on the future of health care in the United States." Oregon's rationing plan, he said, is "superficially attractive to many state legislatures" confronted with soaring health costs and millions of people needing

Continued on Page A18, Column 4

Congress's Study Faults Health Plan

Continued From Page A1

insurance.

Oregon would expand Medicaid to cover all state residents below the poverty level, which was \$10,857 for a family of three last year. But it would reduce the level of services, refusing to pay for medical treatments that rank below 587 on a list of 709 medical procedures.

The Office of Technology Assessment said the technique used by Oregon to set priorities for health services was "not an especially promising approach." In ranking various treatments, Oregon considered their cost in relation to their effectiveness. It also weighed their contribution, if any, to a patient's quality of life and to the well-being of society.

Under current law, people under the age of 21 are entitled to all medically necessary services if they are enrolled in Medicaid. Under the Oregon plan, there is no minimum set of benefits. The Congressional Office of Technology Assessment said the lack of a guaranteed set of benefits was "the most disturbing aspect of Oregon's proposal."

Excluded Illnesses

For instance, the report said that under Oregon's plan the state Medicaid program would no longer have to pay for the treatment of viral pneumonia, viral hepatitis, chronic bronchitis, certain types of asthma or certain back sprains because the treatments rank below line 587 on the list. Nor would it have to pay for treating cancer when doctors concluded that a patient had less than a 10 percent chance of surviving for five years or more.

"Some common medically necessary pediatric services would not be covered," and it is unclear whether children with ailments like viral pneumonia would receive the treatment

they need, the report said.

Oregon's Medicaid director, Jean I. Thorne, defended the state's program and said the Congressional agency's criticism was based on speculation about the worst possible consequences. She said the list of 709 services looked subjective because it "incorporates value judgments" of Oregonians.

State officials were allowed to review an earlier draft of the report, which was then revised to take account of their comments. The latest draft is still being reviewed by outside experts, with publication expected this spring.

The Office of Technology Assess-

Oregon's plan could deny care for some illnesses.

ment was created in 1972. It operates under a bipartisan board composed of six Senators, six House members and the office director, Dr. John H. Gibbons, a physicist who has led the agency since 1979. The agency, widely praised as technically proficient and politically neutral, has issued reports on such topics as nuclear weapons, cancer rates, toxic wastes, lie detectors and Government computers.

Plan Needs Federal Approval

Oregon wants to begin its new health program in July, but it needs permission from the Federal Department of Health and Human Services to disregard certain requirements of the Federal Medicaid law. Members of Congress from Oregon have been lobbying the Administration to approve the

state's request, formally submitted on Aug. 16, 1991.

The new report says Oregon underestimated the cost of its program and may have to reduce benefits in the future by eliminating coverage of many beneficial treatments, with "significant and measurable" harm to Medicaid recipients. A minor change in the cutoff line could, for example, mean that Medicaid would no longer cover birth defects like spina bifida, for which there are well-accepted treatments.

The Federal Government and the states share the cost of Medicaid. In Oregon, the Federal Government pays 63 percent of benefit costs, and the state pays the remainder. Oregon estimated that its experimental program would increase Federal Medicaid spending by \$110 million over five years because it would eventually add 119,000 people to the 220,000 now on the rolls.

A new Oregon law would protect doctors against lawsuits for failure to provide medically necessary services to Medicaid patients if the state decided not to pay for them. The report said the state law could violate an indigent beneficiary's right to pursue legal remedies following the denial or termination of treatment by a doctor or a hospital.

Oregon plans to enroll most welfare recipients in health maintenance organizations and other forms of "managed care," under which doctors coordinate care for patients in return for a monthly fee, set in advance. Oregon says this will save money by reducing hospital admissions and use of emergency rooms.

The Office of Technology Assessment said this arrangement might create a financial incentive for doctors to provide too little care because they could keep money not spent on services to patients.

The Task Force's proposals, which could form the nucleus of an Administration welfare reform initiative, would:

- Expand the AFDC asset accumulation limit to \$10,000 to encourage recipients to save money for emergencies and to obtain a financial cushion for when they leave the program;
- Establish an escrow savings account for long-term AFDC recipients to promote self-sufficiency;
- Create financial incentives for private welfare-to-work firms to assist the transition of long-term welfare recipients from public assistance to employment;
- Permit families assisted under Section 8 housing rental voucher and rental certificate programs to use Federal housing assistance payments to purchase affordable housing;
- Permit recipients of unemployment compensation to take some benefits in a one-time lump sum instead of continued weekly payments, and permit recipients to spend all their time starting a new business without losing their unemployment compensation;
- Consolidate existing Federal categorical programs to facilitate services integration at Federal, state and local levels and coordinate the delivery of welfare services; and
- Consolidate foster care and other child care programs into a foster care block grant.

In Congress, a broad coalition including Republicans in the House Wednesday Group and members of the Congressional Black Caucus have voiced their support for welfare reform measures such as time-limited welfare coupled with an expanded Earned Income Tax Credit and the job training components of the 1988 Family Support Act.

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Welfare Reform, California Style

By DEBRA J. SAUNDERS

For some Californians, welfare has become not a safety net but a hammock. This group by no means represents the majority of those on welfare, but its ability to get the most out of the system has helped drain it nearly dry. Because this group has so tapped the system, there may be little left for families who only recently have been driven by the recession to ask for aid.

That's why Californians may be willing to vote for a controversial initiative proposed by Gov. Pete Wilson that would radically restructure the state welfare system. While other states are freezing or cutting benefits because of state budget problems—and California is in the same leaky boat—Gov. Wilson, like Gov. Jim Florio and Assemblyman Wayne Bryant of New Jersey, seeks to address a system that discourages and undermines self-sufficiency.

The numbers in California tell the story.

- One in five of those receiving Aid to Families with Dependent Children has been on aid for eight years or more. And that's a statistic welfare boosters often use to defend the current system.

- It doesn't pay to work. A 1991 report by the bipartisan state Legislative Analyst's Office noted that the system's incentives "could induce [individuals who have never been on AFDC] to go on welfare rather than work."

- The Legislative Analyst's Office also found that the state's workfare program would work best if it prepared recipients "for jobs paying more than \$1,400 per month." Those who took jobs that paid \$1,200 a month, it noted, would be "worse off by \$150" (their italics) per month.

A Welfare Magnet

- The state has learned that 32% of women on AFDC conceive and have children after going on aid.

- Without changes in the welfare system and demographic trends, the governor's Office of Finance expects the ratio of taxpayers to recipients of AFDC to drop from 6.21:1 in 1990 to 2.94:1 in 2000.

- California's high benefit level appears to have been a welfare magnet for some. Until recently, state AFDC benefits for a family of three were \$693 a month, the second highest in the nation. Now, at \$663, they are the fifth highest—far greater than the \$381 that represents the average grant in the nine other most populous states. The state Health and Welfare Agency believes about 7% of current AFDC recipients lived in another state within 12 months of starting aid here. Approximately half of that 7% were on aid immediately prior to moving to California—which makes them probable welfare shoppers; the price tag for these likely shoppers: \$100 million.

These statistics explain the logic of Gov. Pete Wilson's proposed voter initiative, dubbed the Taxpayer Protection Act of 1992. It would limit AFDC grants for newcomers to what they received in their home state. As Health and Welfare Agency spokeswoman Kassy Perry recently put it, the administration understands that there are a certain number of individuals who come to California "to take advantage of our generosity in terms of cash benefits," and while that may be "their own way of searching for a better life" (36% of the new caseload arrivals come from the 10

lowest benefit states), California can no longer afford to fund it.

The governor's initiative also boasts of work incentives. Initially it would cut all grants by 10%. After six months, able-bodied recipients who failed to find a job would suffer an additional 15% cut. Still, while cutting a family of three's benefits to \$507 after six months (which would be augmented by food stamps and MediCal), it would allow families to keep money earned from a part-time or full-time job—to an amount beyond the \$693 that family earned before last year's welfare cuts. Food stamps would increase regardless of whether the parent works.

The initiative also would try to take away incentives that lead teen-age children to start families they cannot support. Teen-age mothers would receive an extra \$50 each month for staying in school, and face a like cut for dropping out. What's more, minors would receive support only if

A provision similar to part of New Jersey's new welfare plan would freeze benefits so that parents would not receive higher grants for children conceived after the parents began receiving welfare.

they remain at home, unless their parents are deemed abusive or unfit. Payments would go directly to the (grand)parents.

A provision similar to part of New Jersey's new welfare plan would freeze benefits so that parents would not receive higher grants for children conceived after the parents began receiving AFDC. Gov. Wilson has called the present system of increasing the grant for each child an "insidious incentive," although it probably would be more accurate to say such increases simply eliminated a disincentive.

The one growth area about which the initiative does nothing (because of court decisions, it can't) is that of illegal aliens and those seeking legal citizenship.

Illegal aliens can slip over the border and receive free prenatal care. When their children are born in the U.S. (on the U.S. taxpayers' dime), those children become citizens and automatically can be enrolled for AFDC. With half of the nation's illegal immigrants and a third of all refugees, California already shoulders a large burden. And as the economy sours, hurting immigrants who came here to work, the number of citizen children of illegal parents on AFDC in Los Angeles County alone rose from 97,665 in February 1991 to 121,042 in November.

Meanwhile, the Immigration Reform and Control Act of 1986 is about to increase the number of immigrant adults eligible for benefits. A 1990 report by the County Welfare Directors Association estimates that California could expect more than 100,000 new people on AFDC after May 1992 and May 1993, when provisions expire that prohibit adult applicants for citizenship under the amnesty program from receiving benefits for themselves.

The state has beefed up its efforts to go after deadbeat dads and the unwed fathers

of AFDC children. The AFDC recoupment rate for 1989-90 was a mere 5.9% in the Golden State. Since then, the state and counties have begun notifying credit agencies when support is overdue; garnishments of wages and tax rebates are being utilized more aggressively, as they should be.

It should be noted that while welfare advocates cite a lack of jobs as a cause of caseload increases, California's dependency rate grew in the 1980s even when unemployment declined significantly. California's dependency rate remained at 8.8% from 1979 to 1989, when the national rate fell from 6.5% to 6.1% and the state's AFDC benefits were the nation's second highest.

Expect the Wilson initiative, once it qualifies for the November ballot, to play a prominent role in the coming elections—presidential and state. The initiative, which also includes a number of budgetary reforms, is sure to come up as George Bush and the Democratic gaggle pass through California—especially since many provisions require federal waivers.

In his State of the Union address, the president pledged to support such waivers. His rationale—that "welfare was never meant to be a life style"—is one no doubt shared by many taxpayers. It is that belief, not poor-bashing—as New York Gov. Mario Cuomo has suggested—that explains the appeal of welfare reform.

With the retirement of Alan Cranston and the special election for the seat vacated when Mr. Wilson became governor, California has two competitive U.S. Senate races this year. All five Democrats in the Senate races have signed on to part of the initiative—usually the provision to lower benefits for newcomers—or its concept. One Democrat, Lt. Gov. Leo McCarthy, even repackaged the newcomer limit and displayed it in his own initiative proposal. As Gov. Wilson wryly noted, "I have noticed that people who earlier would not have been caught dead saying anything like what they are saying now are saying yes, welfare does require reform."

An Inducement to Abortion?

Indeed, the Democrat-controlled Legislature just might agree to enact some of Gov. Wilson's proposals in order to head off placement on the ballot.

And while many might expect this initiative to endear hard-line conservatives to Gov. Wilson, it might backfire. For one thing, the hard right hates him, no matter what he does. For another, the lack of a grant for additional children is considered an inducement to abortion by pro-life organizations. (In California, AFDC moms automatically are eligible for state-paid abortions.)

But Gov. Wilson does expect this initiative to appeal to California voters, for the simple reason that hard times and a history of runaway spending have left the state with the hard choice of cutting welfare or schools. It's either that or annual tax hikes.

Not even the most optimistic welfare advocate can believe that Californians would agree to pay higher taxes so the state can continue to boast the nation's fifth highest welfare benefits.

Ms. Saunders is a columnist and editorial writer for the Los Angeles Daily News.

The President has solicited bold new state experiments for reforming welfare programs. In addition, the President's Health Care Reform proposal emphasizes State flexibility to take advantage of innovation, program efficiencies, and better methods for cost control. The Oregon Waiver proposal is widely viewed as being a prime example and has bipartisan backing of most Oregon elected officials.

The State of Oregon has submitted a proposal to conduct a new Medicaid program as a 5-year demonstration. Oregon's innovative approach to providing health care coverage for low income individuals has captured much national media attention -- both positive and negative. A summary of the proposal is attached.

ISSUES

However, a number of important issues have been raised in the media and by vocal interest groups and must be considered, including:

INCREASED FEDERAL FUNDING -- Oregon's program would potentially increase federal Medicaid payments by approximately \$150 million over 5 years according to Oregon's own projection. Others, including the Congressional Budget Office, have estimated higher federal costs. The Administration has always required that waivers be "budget neutral."

RATIONING OF HEALTH CARE FOR MEDICAID RECIPIENTS -- Expanded coverage of persons not now eligible for Medicaid would be financed in part by reducing health services to persons now eligible for Medicaid. Advocates for the poor question whether it is appropriate to reduce to benefits to which people are entitled by law.

POTENTIAL INCENTIVES FOR ABORTION -- Abortion would be an explicitly covered service under Oregon's proposal (100% state funded). The Oregon proposal has aroused concern among right-to-life groups because it makes abortion a relatively high priority medical service far above services such as medical care for very low weight and very premature babies.

GOVERNMENT-SANCTIONED DENIAL OF LIFE PROLONGING TREATMENT -- Oregon would not cover medical therapy for many illnesses where the chance of survival or substantial improvement in health status is low. For example, medical therapy for cancer where the prognosis is less than 10% survival over five years would not be covered. However, hospice care would be covered.

POTENTIAL VIOLATION OF THE AMERICANS WITH DISABILITIES ACT -- The Oregon Medicaid program might violate the ADA or other civil rights laws designed to assure equal rights for handicapped persons, although application of the demonstration to the aged, blind and disabled will be delayed.

ADVANTAGES

These potential issues need to be balanced against the clearly positive aspects of Oregon's plan:

PRESIDENTIAL INITIATIVE ON STATE WAIVERS -- The President has solicited bold new State experiments. This is widely viewed as being a prime example. In fact, it is the only major State waiver HHS has in house. Turning down this proposal would call into question the Administration commitment to waivers.

BIPARTISAN SUPPORT OF STATE GOVERNMENT -- This proposal has bipartisan backing of most elected Oregon Democrats (including the Governor) and Republicans (including the two U.S. Senators).

ADDRESSES SOME ADMINISTRATION OBJECTIVES -- This proposal could test expanded health coverage and use of managed care to control costs -- even though it also tests ideas the Administration does not support like "pay or play" or rationing of care.

STATUS

In summary, HHS is evaluating the issues surrounding this waiver. Actions taken on this waiver will help set standards for reviewing waiver requests from other states with regard to welfare reform as well as Medicaid. The review is expected to be completed in the spring.

Attachment

SUMMARY of OREGON PROPOSAL

Oregon's proposal has several parts:

EXPAND AND REFORM MEDICAID --

- . Expands Medicaid Eligibility: Medicaid eligibility is currently limited to very low income single-parent families, pregnant women and their infants, children, and aged, blind, and disabled persons. The proposal would expand Medicaid to cover all persons below the poverty level. This would increase enrollment from 208,000 to 339,000.
- . Prioritizes health care services: All medical services have been ranked by Oregon according to their priority. The services viewed as having the least value would not be covered. This has been widely characterized in the media as explicit rationing of health care.
- . Increases provider payments: Medicaid payments would be increased to assure that provider costs are covered.
- . Extends managed care: Use of managed care would be greatly expanded to include almost all Medicaid beneficiaries.

PAY OR PLAY --

By 1995, all Oregon employers would be required to provide health insurance to all workers and their dependents, or to pay a tax in lieu of insurance. The employer mandate would not go into effect if the Medicaid demonstration proposed is not approved.

HEALTH INSURANCE REFORM --

Reforms the insurance market by creating an all-payers' high-risk pool.

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Indexing of Capital Gains

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REGULATORY INDEXING OF CAPITAL GAINS

There have been recent proposals for Treasury to implement significant tax policies by regulation. The question arises whether Treasury has authority to issue such regulations.

The Congressional tax-writing Committees apparently believe that Treasury's general regulatory authority is quite broad. In the House-passed tax legislation (H.R. 4210), there is report language indicating that "Congress believes that the Administration has broad authority under current law" to revise the regulations dealing with the allocation of research expenses between U.S. income and foreign income. The Senate Finance Committee takes a similar approach in its pending tax legislation.

The allocation of research expenses affects the size of a company's foreign tax credit. For the last several years, Congress has passed a series of bills giving Treasury specific legislative authority to provide temporary safe-harbor rules for determining the proper allocation. That statutory grant of authority has expired. Now, Congress takes the position that Treasury may provide such safe harbors without such specific legislative authority. Indeed, Congress made that determination on the grounds that it "would be consistent both with current law regulatory authority and with the stated goals of the Administration."

Several members of Congress have suggested that Treasury has the authority to provide for the indexing of the basis of capital assets. This indexing would eliminate the taxation of merely inflationary gains. In determining whether Treasury has the authority to adopt such an indexing proposal without specific legislative authority, the current views of Congress on Treasury's research expense allocation authority are both relevant and illustrative. Just like establishing safe harbor rules for the research expense allocation provisions, indexing for capital gains would be consistent both with current law regulatory authority and with the stated goals of the Administration.

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Rail Strike



NATIONAL MEDIATION BOARD
WASHINGTON, D. C. 20572

FAX MESSAGE

OFFICE OF THE CHAIRMAN
(202) 523-5268

FROM

NATIONAL MEDIATION BOARD

WASHINGTON, DC

DATE: 3-5

TO: C Ann Findlay

ADDRESS: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

FROM: PATRICK J. CLEARY

TELEPHONE NUMBER: (202) 523-5268

FAX NUMBER: (202) 523-1031

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

SPECIAL INSTRUCTIONS:

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NATIONAL MEDIATION BOARD

WASHINGTON, D.C. 20572

(202) 523-5920

In response to news media inquiries, the following information is provided by the National Mediation Board. The Board administers the Railway Labor Act, which governs labor-management relations in the airline and railroad industries. Under the Act, the Board is assigned numerous responsibilities but its two principal functions are the mediation of collective bargaining disputes and the determination of the choice of employee representatives for the purpose of collective bargaining.

Summary

The National Mediation Board (NMB) on March 4, 1992, announced the start of 30-day "cooling-off" periods for a number of railroad-union contract negotiations after one or both parties in each case rejected urgings of the Board two days earlier to submit their unresolved issues to binding arbitration. Basically involved are disputes involving Conrail, Amtrak and contract talks between the International Association of Machinists and Aerospace Workers (IAM) and major freight carriers represented by the National Railway Labor Conference (NRLC).

Unless the disputes are settled prior to the end of the 30-day cooling-off periods, or an Emergency Board is established during that time by the President, the parties will be free to engage in self-help actions. This includes strikes by the unions and unilateral imposition by the railroad companies of rates of pay and working conditions. The NMB said the cooling-off periods will expire at 12:01 a.m. EST, April 4, 1992.

Overview of the Current Disputes

In summary, the disputes are:

- * Conrail -- Disputes between the Consolidated Rail Corporation (Conrail) and two of its unions, the Brotherhood of Locomotive Engineers (BLE) and the Brotherhood of Maintenance of Way Employees (BMWE). NMB mediators reported that despite their best efforts, they were unable to bring about an amicable settlement between the parties.

- * Amtrak -- Disputes between the National Railroad Passenger Corp. (Amtrak) and several of its unions.

- * IAM/NRLC -- Multi-railroad disputes between the International Association of Machinists and Aerospace Workers (IAM)

and most of the nation's major railroads. The IAM's cases were not part of the recent nationwide settlements achieved through Presidential Emergency Board 219 and Public Law 102-29. Approximately 40 railroads, along with a number of their subsidiaries, are represented in these disputes between the IAM and the National Railway Labor Conference (NRLC). Additionally, there is a related dispute involving CSX Transportation and the IAM.

Statutory Background

The Railway Labor Act (RLA), which governs labor-management relations in the railroad and airline industries and is administered by the NMB, provides a multi-step dispute resolution process for collective bargaining in these two industries. Following direct negotiations, either party may request mediation assistance from the NMB. While the dispute remains in federal mediation, neither party may alter the status quo by commencing strikes, implementing changes or otherwise.

In those cases where mediatory efforts fail to produce settlements and the NMB determines that such efforts have been exhausted, the parties formally are offered ("proffered") binding arbitration to resolve any unresolved issues. If either party rejects the Board's urgings to accept arbitration, a 30-day "cooling-off" period is triggered. During this period, the NMB continues its efforts to achieve peaceful contract settlements. Unless the dispute is settled by the end of the cooling-off period, or an Emergency board is established by the President, the parties may engage in the full-range of non-violent self-help, including strikes.

In the case of Emergency Boards, Section 10 of the RLA provides that the NMB "shall notify the President" in the event of an unresolved dispute which "threaten[s] substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service...." Upon that notice from the NMB, the President may, in his discretion, establish an Emergency Board. If an Emergency Board is created, the status quo is extended. Emergency Boards have 30 days to investigate the dispute and make recommendations. The parties are obligated to maintain the status quo and to refrain from self-help until 30 days after Emergency Boards have submitted their reports.

This statutory synopsis does not include special RLA procedures applicable only to commuter railroads under Section 9A of the Act.

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