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

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

June 24, 2002

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

Findings

Current Law

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

Chairman's Mark

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

Title I - FUNDING

Section 101 - TANF

Current Law

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

Chairman's Mark

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

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

Section 102 - Contingency fund

Current Law

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

Chairman's Mark

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

Section 103 - Child care

Current Law

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

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

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

Chairman's Mark

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

Section 104 - Legal immigrant option in TANF

Current Law

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

Chairman's Mark

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

Section 105 - Use of funds

Current Law

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

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

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

Chairman's Mark

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

Section 106 - Definition of assistance

Current Law

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

Chairman's Mark

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

Section 107 - Maintenance of effort

Current Law

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

Chairman's Mark

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

Section 108 - Territories

Current Law

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

Chairman's Mark

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

Section 109 - Repeal of loan fund

Current Law

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

Chairman's Mark

The mark repeals the loan fund.

Section 110 - Technical corrections

Title II - WORK

Section 201 - Universal engagement

Current Law

State plan must require that a parent or caretaker engage in work (as defined by the state) after, at most, 24 months of assistance. (This requirement is not enforced by a specific penalty.) States must make an initial assessment of the skills, prior work experience, and employability of each recipient 18 years or older or those who have not completed high school within 30 days.

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

Chairman's Mark

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

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

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

Section 202 - Work participation rates

Work Participation Rates

Current Law

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

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

Chairman's Mark

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

Employment Credit

Current Law

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

Chairman's Mark

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

Work Hours

Current Law

Adult recipients generally must work in a countable activity for an average of 30 hours weekly (20 hours if the single caretaker of a child under age 6; at least 35 hours if a two-parent family). Parents with 30-hour requirement must spend 20 hours in priority activities (see below). Teen parents without high school diplomas meet work obligation by education directly related to work for 20 hours weekly or by satisfactory school attendance. (Except for teen parents, single parents with a child under 6, and participants in a tribal program with different hour requirements, families must work an average of at least 30 hours weekly to be counted as working.)

Chairman's Mark

The mark maintains general requirement for 30 hours of weekly work participation by most adults while increasing from 20 hours to 24 hours the share of time that must be spent in priority activities. It retains the provision deeming parents of children under 6 to meet the work requirement by engaging 20 hours weekly in any work activity.

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

Current Law

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

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

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

Chairman's Mark

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

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

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

Title III - FAMILY PROMOTION AND SUPPORT

Section 301 - Healthy marriage promotion grants

Current Law

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

Chairman's Mark

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

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

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

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

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

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

Section 302 - Teen pregnancy prevention

Current Law

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

Chairman's Mark

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

Section 303 - Responsible fatherhood

Current Law

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

In addition, PRWORA authorized grants to states to establish and operate access and visitation programs. These programs are to facilitate noncustodial parents access/visitation to their children. An annual entitlement of $10 million is available to states for these grants. Eligible activities include but are not limited to mediation, counseling, education, development of parenting plans, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements. States may use the grants to create their own programs or to fund programs operated by courts, local public agencies, or nonprofit organizations. The allotment formula is based on the ratio of the number of children in the state living with only one biological parent in relation to the total number of such children in all states.

Chairman's Mark

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

Section 304 - Second chance homes

Current Law

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

Chairman's Mark

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

Title IV - HEALTH COVERAGE

Section 401 - Transitional Medicaid

Current Law

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

Chairman's Mark

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

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

Title V - CHILD SUPPORT AND CHILD WELFARE

Section 501 - Distribution

Assignment Rule

Current Law

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

Chairman's Mark

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

Families Receiving TANF

Current Law

While the family receives TANF benefits, the state is permitted to retain any current child support payments and any assigned arrearages it collects up to the cumulative amount of TANF benefits that have been paid to the family. In other words, the state can decide how much, if any, of the state share of the child support payment collected on behalf of TANF families to send to the family. However, the state is required to pay the federal government the federal share of the child support collected.

Chairman's Mark

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

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

Families Who Formerly Received TANF

Current Law

Current child support payments must be paid to the family if the family is no longer on TANF. Since October 1, 1997, child support arrearages that accrue after the family leaves TANF also are required to be paid to the family before any monies may be retained by the state. Since October 1, 2000, child support arrearages that accrued before the family began receiving TANF also are required to be distributed to the family first. However, if child support arrearages are collected through the federal income tax refund offset program, the family does not have first claim on the arrearage payments. Such arrearage payments are retained by the state and the federal government.

Chairman's Mark

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

Financing Options

Current Law

None.

Chairman's Mark

Under the mark, to the extent that the arrearage amount payable to a former TANF family in any given month exceeds the amount that would have been payable to the family under current law, the state may elect to use TANF funds to provide the amount to the family or the state can elect to have the amount paid to the family considered an expenditure for MOE purposes. The state can elect one of the two options, but not both. Also, the mark amends the Child Support Enforcement State Plan to include an election by the state to include whether it is using the new option to pass through all arrearage payments to former TANF families without paying the federal government its share of such collections or maintain the old distribution method.

Ban on Recovery of Medicaid Costs for Certain Births

Current Law

No provision.

Chairman's Mark

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

Section 502 - Mandatory review and adjustment

Current Law

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

Chairman's Mark

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

Section 503 - Passport denial

Current Law

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

Chairman's Mark

The mark authorizes the denial, revocation, or restriction of passports to noncustodial parents whose child support arrearages exceed $2,500, rather than $5,000 as under current law.

Section 504 - Tax intercept, post-18

Current Law

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

Chairman's Mark

The mark permits the federal income tax refund offset program to be used to collect arrearages on behalf of non-welfare children who are no longer minors.

Section 505 - Financing and administrative review

Current Law

No provision.

Chairman's Mark

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

Section 506 - Tribal child support regulations

Current Law

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

Chairman's Mark

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

Section 507 - Report on undistributed collections

Current Law

No provision.

Chairman's Mark

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

Section 508 - Use of new hire data

Current Law

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

Chairman's Mark

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

Section 509 - Reinstatement of annual HHS child support report

Current Law

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

Chairman's Mark

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

Section 510 - Extension of child welfare waiver authority

Current Law

Federal law permits the HHS Secretary to conduct demonstration projects that are likely to promote the objectives of the child welfare programs authorized under Title IV-B and Title IV-E. This authority is granted for FY1998 through FY2002.

Chairman's Mark

The mark extends this authority through FY2007.

Section 511 - No limitation on number of child welfare waivers

Current Law

No current provision. However, HHS has expressed a "preference" for projects "that are submitted by States that have not previously been approved for a child welfare demonstration project." (See ACYF-CB-IM-2000-01 from Children's Bureau, dated February 4, 2000.)

Chairman's Mark

The mark prohibits the HHS Secretary from limiting the number of waivers or demonstration projects that may be granted to a single state.

Title VI - TRIBAL ISSUES

Section 601 - Tribal TANF improvement fund; economic development

Current Law

The law earmarks some TANF funds (subtracted from the TANF grant of the state containing the tribes' service area) for direct administration by applicant Indian tribes and Alaska native organizations. The amount equals federal AFDC payments to the state for FY1994 attributable to Indian families. Annual federal funding for 36 TANF tribal assistance programs covering about 24,000 families now totals $97.5 million. State funds contributed toward an approved tribal plan may be counted toward the TANF maintenance-of-effort spending requirement, but some tribes receive no state funds. The Secretary, with participation of tribes, establishes work participation rules, time limits for benefits, and penalties for these programs. In applying TANF's 60-month limit on the use of federal funds for ongoing assistance to an adult, the law requires disregard of months of assistance provided to adults living in Indian country or an Alaskan Native village in which at least 50% of the adults are employed. In general, tribal programs in Alaska must be comparable to those operated by the state of Alaska. Some tribes, those that operated their own JOBS work/training programs before TANF, also receive an annual appropriation of $7.6 million for work and training (renamed Native Employment Works). In addition, $28.6 million in welfare-to-work grants was awarded for FY1998 and FY1999 by the Labor Department to Indian and Native tribal governments.

Chairman's Mark

The mark extends the authorization for tribes to operate TANF programs. The mark also creates a "tribal TANF improvement fund," funded at $75 million for FY 2003-2006, to support tribal capacity grants for tribal human services infrastructure ($35 million), for tribal development grants to provide technical assistance in improving reservation economies ($35 million), and technical assistance, including peer-learning and feasibility studies ($5 million). In addition, it consolidates job training programs into a new Tribal Employment Services Program, funded at $37 million yearly; and sets aside $25 million of the TANF contingency fund for tribes. For time limit purposes, the mark requires, with the exception of Alaska, the disregard of months of assistance received by an adult while living in an area in which 20% of adult TANF recipients are jobless but requires recipients to comply with program rules. The mark gives states authority to define work activities for recipients in regular TANF state programs who live in Indian country areas in these high joblessness areas. (Tribes operating TANF programs already have

similar flexibility.) The mark requires HHS to convene an advisory committee on the status of non-reservation Indians and requires the HHS Office of Faith-Based and Community Initiatives to convene an advisory committee of Indians expert in social services and the spiritual aspects of traditional Indian cultures. For all provisions above, the current rules concerning eligible entities in Alaska would be maintained and applied. The mark requires GAO to study the demographics of Indians not residing on reservations, with information about their economic and health status and their access to public benefits.

Section 602 - Tribal IV-E eligibility

Current Law

Title IV-E foster care and adoption assistance programs may be operated by "states," which are defined as each of the 50 United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. These plans must be in effect in all political subdivisions of the state and standards established for approving foster care homes must be "reasonably" in accord with recommended standards of national organizations concerned with foster care placement. States are reimbursed for foster care maintenance and adoption assistance payments made on behalf of eligible children at the applicable federal medical assistance percentage (ranging from 50%-83%); this percentage is based on the state's per capita income. Administrative expenditures related to serving children eligible for federally reimbursed maintenance payments and adoption assistance are generally at 50%, with 75% reimbursement for certain training costs.

States that operate a foster care program must make foster care maintenance payments on behalf of eligible children removed from their homes if the child's placement and care are the responsibility of the state child welfare agency or the responsibility of another public agency with whom the state child welfare agency has a currently effective agreement.

Chairman's Mark

The mark allows, beginning in FY 2004, an Indian tribe or intertribal consortium to operate Title IV-E foster care and adoption assistance programs under the same provisions as those applying to states (with certain specified exceptions). Tribal plans will be allowed to define service areas where a plan is in effect and to grant approval of foster homes based on tribal standards that ensure the safety of, and accountability for, children placed in foster care. To establish the applicable federal reimbursement rate for eligible foster care maintenance and adoption assistance payments made under a tribal plan, the HHS Secretary is required to determine a tribe's federal medical assistance percentage based on the per capita income of the service population defined in the Title IV-E tribal plan.

The mark also permits an Indian tribe or intertribal consortium and a state to enter into a cooperative agreement for administering or paying funds under Title IV-E. Any cooperative agreement in effect prior to the enactment of this law remains in effect unless either party to the agreement chooses to revoke or modify the agreement, according to the terms of that agreement.

The mark requires a state to make foster care payments on behalf of an eligible child whose placement and care is the responsibility of an Indian tribe or intertribal consortium if that tribe or consortium is not operating its own Title IV-E foster care program and it has a cooperative agreement with the state or it has submitted to the HHS Secretary a description of the

arrangements made between the tribe or consortium and state for provision of child welfare services and protections required under Title IV-E.

The HHS Secretary is required to issue regulations to carry out provisions related to the tribal IV-E plan within 1 year after enactment. Current TANF provisions concerning eligible entities in Alaska are applied for this program.

Title VII- Innovation, Flexibility, and Accountability

Section 701 - Data collection; performance measures

Current Law

Data Collection

States are required to collect monthly, and report quarterly to HHS, disaggregated case record information (but may use sample case record information for this purpose) about recipient families. Required family information includes county of residence, whether a member received disability benefits, ages of members, size of family and the relation of each member to the family head, employment status and earnings of the employed adult, marital status of adults; race and educational level of each adult; race and educational level of each child; whether the family received subsidized housing, medicaid, food stamps, or subsidized child care (and if the latter two, the amount); number of months that the family received each type of aid under the program; number of hours per week, if any, that adults participated in specified activities (education, subsidized private jobs; unsubsidized jobs, public sector jobs, work experience, or community service, job search, job skills training or on-the job training, vocational education); information needed to calculate participation rates; type and amount of assistance received under the program; including the amount of and reason for any reduction of assistance; unearned income; citizenship of family members; number of families and persons receiving aid under TANF (including the number of two-parent and one-parent families); total dollar value of assistance given; total number of families and persons aided by welfare-to-work grants (and the number whose participation ended during a month); number of non-custodial parents who participated in work activities; for each teenager, whether he/she is the parent of a child in the family. From a sample of closed cases, the quarterly report is to give the number of case closures because of employment, marriage, time limit, sanction, or state policy.

Chairman's Mark

The mark deletes the data element of the education level of each child and substitutes an element on whether a individual responsibility plan has been established. Under the mark, states are required to make public a summary of the financial and program data submitted to HHS when the data is transmitted, including posting the information on the state's web-site.

Performance Measures

For the purpose of the TANF High Performance Bonus, the Secretary of HHS developed a formula to measure state performance. For FY1999 through FY2001, bonuses were awarded based on job entry and retention rates, quarterly earnings, and earnings gain. Data on these measures was submitted by each state that wanted to compete for a High Performance Bonus. Beginning with FY2002, bonuses will be awarded based on these employment-related measures,

as well as measures relating to the share of children in married couple families, participation in other low-income assistance programs, and child care affordability.

Chairman's Mark

The TANF High Performance bonus is repealed. (See Section 704.) HHS is required to annually report data for each state on welfare-to-work performance, based on measures of job entry, job retention rates, quarterly earnings, and earnings gain. In addition, a national goal of reducing teen pregnancies by one-third is established. HHS is required to issue an assessment of progress toward the goal, including state-level data on teen pregnancies and each state's progress toward achieving the goal.

Section 702 - TANF state plans

Current Law

To receive TANF block grant funds, the Secretary of HHS must certify a state has submitted a "complete" state plan. Each state must outline, in a 27-month plan, how it intends to: conduct a program providing cash assistance to needy families with children and providing parents with work and support services; require caretaker recipients to engage in work (at state definition) after 24 months of aid or sooner, if then judged work-ready; ensure that caretakers engage in work in accordance with the law; take steps deemed necessary by the state to restrict use and disclosure of information about recipients; establish goals and take action to prevent/reduce the incidence of out-of-wedlock pregnancies; and conduct a program providing education and training on the problem of statutory rape. In addition, the plan must indicate whether the state intends to treat families moving into the state differently from others; indicate whether the state intends to aid legal immigrants; set forth objective criteria for benefit delivery and for fair and equitable treatment; and provide that, unless the governor opts out by notice to HHS, the state will require a parent who has received TANF for 2 months and is not work-exempt to participate in community service employment. In the plan the state must certify that it will operate a child support enforcement program and a foster care and adoption assistance program and provide equitable access to Indians ineligible for aid under a tribal plan. It must certify that it has established standards against program fraud and abuse. It must specify which state agency or agencies will administer and supervise TANF. It also must include assurances that local government and private sector organizations have been consulted regarding the plan so that services are provided in a manner appropriate to local populations and have had at least 45 days to submit comments on the plan and the design of such services. In addition, the state may opt to certify that it has established and is enforcing procedures to screen and identify recipients with a history of domestic violence, to refer them to services, and to waive program rules for some of them.

Chairman's Mark

Under the mark, for a state to receive TANF funds, the Secretary of HHS must certify a state has submitted a "complete" state plan. Each state must outline, in a 24-month plan, how it: conducts a program providing cash assistance to needy families with children and providing parents with work and support services; requires parents or caretakers receiving assistance to engage in work or work readiness activities (at state definition); takes steps deemed necessary by the state to restrict the use and disclosure of information about recipients; conducts the universal engagement procedures (see section 201); and provides equitable access to Indians. The state

must also provide information describing state programs to include, for each TANF- or MOE-funded programs: its name; goals; the benefits and services provided; principal eligibility rules (financial and nonfinancial) and populations serviced under the program. For programs providing assistance, the plan must also include information about applicable work requirements, required individual responsibility plans, time limits, and sanction policies.

In addition, the plan must indicate whether the state intends to aid legal immigrants and set forth objective criteria for benefit delivery and for fair and equitable treatment. In the plan the state must certify that it: operates a child support enforcement program; operates a foster care and adoption assistance program; has established standards against program fraud and abuse; has procedures to ensure that any child care provider delivering child care services funded by TANF complies with the health and safety requirements applicable to the Child Care and Development Block Grant; and has consulted with Indian tribes in the state (with the exception of Alaska). In addition, the state may opt to certify that it has established and is enforcing procedures to screen and identify recipients with a history of domestic violence, to refer them to services, and to waive program rules for some of them. States which provide transportation aid through TANF must certify that the transportation agencies and planning bodies have been consulted in the development of the plan; similarly, states which provide housing aid through TANF must also certify that local housing authorities have been consulted in the development of the plan. The plan must specify which state agency or agencies will administer and supervise TANF. Prior to submitting a plan to HHS, the state shall make the proposed plan available to the public though a state web site or other appropriate means. At least 45 days shall be allowed for public comment. After submission to HHS, the state shall make the plan available to the public through a state web site or other appropriate means.

The mark includes a provision clarifying that no individual or private right of action shall be conferred solely by the contents of a state plan.

The Secretary of HHS, after notice and public comment, is required to develop and promulgate a standard state plan form. The standardized form shall be finalized not later than February 1, 2003, and shall be used by the states beginning in FY2004.

Section 703 – Research

Current Law

The Secretary of HHS is required to conduct research on effects, costs, and benefits of state programs. The law also provides that the Secretary may help states develop innovative approaches to employing TANF recipients and shall evaluate them. PRWORA also appropriated $15 million yearly, half for TANF research and novel approaches cited above and half for state-initiated TANF studies and completing pre-TANF waiver projects. In addition, under PRWORA, the Census Bureau was provided $10 million per year to continue information collection for panels of the Survey of Income and Program Participation to provide information on the status of low-income people during the course of welfare reform.

Chairman's Mark

The mark includes research funding as part of the main TANF block grant, as a reservation of funds to HHS, rather than as a separate appropriation. The mark funds an effort to assess child well-being at a state level. An advisory panel will be appointed to make

recommendations about appropriate measures and statistical tools to provide them. The measures are to be statistical indicators, including measures of family structure, educational attainment, health status, and child development. Members of the advisory panel are to be nominated by the Secretary of HHS, the Chairman and Ranking Member of the Senate Finance and House Ways and Means Committees. For the child well-being assessment, $15 million per year is reserved (replacing the $10 million in Census funding) to the Secretary of HHS.

In addition, $20 million per year is reserved for HHS to conduct welfare reform research. With these funds, HHS is required to support: (1) longitudinal studies of TANF applicants and recipients in 10 states to determine the factors that contribute to positive employment and family outcomes; (2) a random assignment study comparing the effects of full-family sanctions, partial sanctions, and other policies for increasing engagement in work activities. The study is to include information on participation rates, employment and earnings, duration and amount of welfare payments, family income, and the well-being of children; (3) a study of a representative sample of teen parent TANF recipients to determine whether state data on the number of such recipients is accurate, including an examination of the extent to which such recipients are members of families are not reflected in the officially reported data. The study should also determine what assessment procedures are utilized with such recipients and whether they would detect an educational barrier, such as a learning disability, and the services and eligibility rules for such recipients. Reports for (2) and (3) are due to Congress on December 31, 2006. Of the total provided, $2 million is reserved for research on tribal welfare programs and on efforts to reduce poverty among American Indians in general.

Section 704 - Business link partnership grants

Current Law

The law appropriated an annual average of $200 million (a total of $1 billion over 5 years, FY1999-FY2003) for bonuses to "high performing" states, defined as ones whose performance score in achieving TANF goals at least equals a threshold set for that year by the Secretary. State performance is measured by a formula developed by the Secretary in consultation with the National Governors Association and the American Public Human Services Association.

Chairman's Mark

The mark repeals the current high performance bonus, replacing it with a $200 million annual competitive grant program called Business Link Partnership for Employers and Nonprofit Organizations. Grants are to be awarded jointly by the Departments of Labor and HHS to nonprofit groups, local workforce investment boards, localities, or tribes to provide for:

(1) Creation or expansion of programs designed to partner with employers to improve wages of low-income persons, though improving job skills and providing supports for low-income workers and those with disabilities.
(2) Creation or expansion of temporary wage-paying supported work – or "transitional jobs" – programs, which are for low-income individuals unable to secure work through job search or other employment-related services because of limited skills, experience, or other work barriers.
(3) Capitalization approaches to non-profit social service delivery.

At least 40% of the funding each year is to be used each for (1) and (2). Those eligible for services under (A) and (B) are TANF parents, former TANF parents, and non-custodial parents who are unemployed or having difficulty in paying child support obligations.

Section 705 - Transportation program

Current Law

No provision.

Chairman's Mark

The mark creates a competitive grant program to create or expand programs to improve access to dependable automobiles, such as programs that assist low-income families with the purchase or maintenance of vehicles or insurance of vehicles. Eligible applicants are states, localities, and non-profit organizations. The mark authorizes $15 million per year for FY2004-FY2007.

Section 706 - At-home infant care

Current Law

No provision.

Chairman's Mark

The mark provides funding for demonstration grants to at least 5 and up to 10 states to conduct "at-home infant care" programs, under which mothers provide infant care themselves in situations where infant care is difficult to obtain, such as remote rural areas or if a child has a disability. Benefits provided cannot exceed the applicable payment rate for providers of infant care for children under the state child care program. Participation is limited to those with a child under two and a recent work history. An evaluation is required to assess the cost effectiveness of this approach and the impact on child development. The mark provides $30 million per year for FY2003-FY2007.

Section 707 - Housing with services for families with multiple barriers to work

Current Law

No provision.

Chairman's Mark

The mark establishes competitive grants to be jointly awarded by the Secretaries of HHS and HUD to non-profit organizations for demonstrations projects to test different models for providing housing and services for TANF recipients who have multiple barriers to work. The mark authorizes $50 million in funding for FY2004.

Section 708 – Transitional compliance for teen parents

Current Law

States are prohibited from providing TANF-funded assistance to unwed parents under age 18 and their children unless they live the home of an adult relative or another adult-supervised arrangement (such as a "second-chance" home).

Chairman's Mark

The mark allows states the option to provide assistance for teen parents for up to 60 days while aiding the parent in coming into compliance with the requirement that teen parents live in adult-supervised settings. In addition, transitional living youth projects, funded by the Runaway and Homeless Youth program, are added as an acceptable form of adult-supervised residential setting.

Section 709 - TANF/WIA

Current Law

The Workforce Investment Act (WIA) requires each local Workforce Investment Board to develop a "one-stop" system to provide employment services. Some programs are required to be partners in the one-stop system. TANF is an optional partner. Partners must enter into written agreements with local boards regarding services to be provided, funding, and methods of referring individuals among the partners.

Chairman's Mark

The mark requires TANF programs to be partners in the WIA one-stop system unless the state opts out of the requirement.

Section 710 - Advanced planning documents

Current Law

No provision.

Chairman's Mark

The mark requires that, within one year of enactment, the Secretaries of the Department of Health and Human Services, Agriculture, Labor, Education and other federal agencies, in consultation with the National Governors Association, the National Conference of State Legislatures, and the American Public Human Services Association, submit to Congress a report reviewing and making recommendations for improvement in the federal laws and regulations governing the approval of human service information systems. The report is to review the Advanced Planning Documents (APD) process; consider the development of a single approval process for multi-program information system procurement and administration; improve the current federal cost allocation requirements; and consider allowing state procurement standards that meet or exceed federal standards to be sufficient

Section 711 - Pre-existing welfare waivers

Current Law

Before the enactment of the 1996 welfare reform law, states applied for and received waivers of federal requirements of the Aid to Families with Dependent Children (AFDC) program. TANF permitted waivers in effect on date of enactment of TANF to continue until their scheduled expiration, unless the state chooses to end them early. This permitted a state to continue its waiver policies even if they were inconsistent with TANF requirements until the expiration of the waiver. No extensions of pre-1996 waivers are permitted.

Chairman's Mark

The mark permits states with waivers set to expire after on or after October 1, 2002 to continue them through the end of FY2007, provided that they comply with the TANF "universal engagement" requirement (as described in Section 201).

Section 712 - Anti-discrimination

Current Law

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

Any program or activities provided under TANF shall comply with the Age Discrimination Act of 1975; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and Title VI of the Civil Rights Act of 1964.

Chairman's Mark

The mark provides that a TANF recipient cannot displace any employee by either filling an unfilled vacancy or resulting in a reduction in hours, wages or employee benefits of an employee, or by performing work while an employee is on layoff from a job or substantially equal position. It requires states to have a grievance procedure to resolve complaints of displacement, including the opportunity for a hearing. It provides that the remedies of a violation of the non-displacement requirement include termination or suspension of payments, prohibition of the placement of the participant, reinstatement of the employee, or other relief to make the aggrieved employee whole. The provisions do not preempt or supercede any local law providing greater protection from displacement. In addition, no funds provided under TANF are to be used to assist, promote, or deter organizing for purposes of collective bargaining. The mark applies worker protection laws, including but not limited to, the Fair Labor Standards Act, Occupational Safety and Health Act, and Title VII of the Civil Rights Act to recipients of TANF engaged in work activities in the same manner as they apply to other workers.