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The Congressional Divide Over TANF Reauthorization*

Liz Schott

In 1996, welfare "as we knew it" was replaced with the Temporary Assistance for Needy Families (TANF) block grant. TANF eliminated both the Aid to Families with Dependent Children (AFDC) program and the entitlement to cash assistance, and imposed a five-year time limit on federal aid. TANF funding came in the way of a block grant to each state, which provided fixed federal funding and enormous discretion to states. On September 30, 2002, TANF expired, but Congress twice has temporarily extended funding in order to provide ongoing federal aid. Congress must now take additional action to extend TANF beyond March 2003.

TANF reauthorization could have provided an opportunity for Congress to expand and improve the 1996 welfare law. Until this year, both critics and supporters of the legislation were suggesting relatively modest changes, and the consensus was that TANF would be reauthorized with only a few modifications. However, TANF reauthorization fell victim to partisan politics and ideological differences and Congress has still been unable to reach an agreement on substantive legislative changes. TANF reauthorization was not the only piece of important legislation at a stalemate in Congress this year. For example, Homeland Security and Medicare drug benefit proposals were also at an impasse. The stalemate over TANF, however, seems particularly unnecessary in light of the initial degree of consensus about the central issues surrounding TANF reauthorization. As one national welfare expert

*At the time this article was finalized for press, the primary TANF reauthorization bills discussed in this article were still pending and the 107th Congress was expected to act on welfare reform during the lame duck session in November 2002. By the time this article is read, the bills discussed here will no longer be pending, although they may be re-introduced in the 108th Congress since Congress did not reauthorize TANF. Therefore, discussion of the bills that were pending in the 2002 Congressional session is generally in the past tense in this article.

commented, "the fundamental story of TANF reauthorization this year is manufactured controversy."[1]

This article examines why Congress has not yet been able to reauthorize welfare reform. It focuses on central differences between the House and Senate bills, as well as the larger aims of various welfare reform agendas brought to the TANF reauthorization debate by both liberals and conservatives.

ANTICIPATION: WHAT THE UPCOMING TANF REAUTHORIZATION DEBATE LOOKED LIKE A YEAR AGO

As the 2002 reauthorization of the TANF block grant approached, the key issues appeared to be the level of funding, the extent of the emphasis on marriage promotion, and some modifications on how to measure state performance. National welfare advocacy groups, researchers, and states generally agreed that the key issues were maintaining (and increasing) both funding and state flexibility. Liberals focused on increasing state flexibility with respect to work activities. Flexibility would give states the ability to allow education and training to help recipients obtain better jobs, as well as provide a broader range of services to those with significant barriers to employment. Liberals also supported shifting performance measures from caseload reduction to poverty reduction, and allowing states the flexibility to serve recent legal immigrants. Conservative proposals were focused primarily on promoting marriage, but also included controlling costs and increasing work requirements. While promoting marriage was one of the stated purposes of the 1996 law, conservatives argued that generally states had not prioritized marriage promotion. Although liberals and conservatives focused on different issues, neither was suggesting a wholesale rewrite of the 1996 law. It seemed that an acceptable reauthorization package could emerge from Congress that would provide something for each side.

All this changed in February 2002 when the Bush Administration released its version of a reauthorization proposal and the debate shifted to details on welfare work requirements.[2] The Bush proposal maintained fixed block grant funding, without any increase to compensate for inflation, and redirected $300

million annually to "promote healthy marriages."[3] The centerpiece of the Administration's proposal, and at the center of the Congressional impasse, was a proposal to dramatically increase work requirements and limit state flexibility.[4] While arguing that welfare reform was successful,[5] the Administration simultaneously criticized state performance in getting recipients to work and sought to curtail the degree of flexibility available to states. The Bush Administration's approach was at odds with its own claims of the success of welfare reform and its traditional preferences for state flexibility over federal mandates. This approach shifted the debate from proposals on how to improve TANF in order to help families leave poverty to rhetoric on which party is tougher on work.

Specifically, the Bush Administration's proposal sought to curtail state flexibility by increasing the number of hours that TANF recipients who receive cash assistance must work and limiting the types of activities that would count toward meeting the work requirements.[6] These new requirements would have limited states' ability to provide education and training, as well as the states' ability to address barriers to employment that confront many families. The Administration's proposal would have required that states dismantle effective programs in order to meet the new restrictive specifications.

In May 2002, the House of Representatives passed H.R. 4737, which essentially adopted the Bush Administration's proposal. Soon afterwards, the Senate Finance Committee approved a tri-partisan bill, which reflected many of the recommendations of states, researchers, and advocacy groups.[7] One of the most significant differences between the two bills was the type and extent of work activities required of welfare recipients.

Central Differences Are on TANF Work Requirements[8]

Currently, the TANF block grant requires states to meet certain work participation rates or face a fiscal penalty. States are penalized unless 50% of families are participating in at least 30 hours of "countable" work activities per week (20 hours per week for a single parent with a child under six years of age). See Table 1. However, this 50% work rate can be reduced

through a "caseload reduction credit" based on a state's caseload decline under TANF.[9]

The House bill and the Senate Finance bill both proposed changes in this work requirement. Both raised the participation rate from the current 50% to 70% by the year 2007. The bills differed, however, on the number of hours of work required. The House bill required 40 hours per week of work participation, while the Senate Finance bill sought to maintain the current law which requires 30 hours per week of work participation (20 hours per week for single parents with a child under age six). Both bills required that at least 24 of these hours involve the more restrictive list of primary activities. See Table 1.

One of the central differences between the bills concerned what types of activities would count toward the 24-hour primary work requirement contained in each bill. (In both bills, a broader range of activities qualify after the 24 hours of primary activities are met.) While work—unsubsidized or subsidized employment, or unpaid workfare—would count toward the 24-hour requirement under each bill, the House bill imposed strict limits on what other activities could qualify as primary activities. Under the House bill, education, training, job search, or barrier-removal activities *combined* would have counted as primary activities for only three months within a total 24-month period. (In some cases, education can count for four months.) Beyond the three-month window, these activities would have only counted to meet the remaining 16-hour requirement. The House bill was more restrictive than current law limits on education and training.

In contrast, the Senate Finance bill expanded the definition of "primary work activities" beyond the current law to extend vocational education (increased from 12 to 24 months) and job search (increased from six to eight weeks), and to add rehabilitative activities (for up to six months: three months plus an additional three months when combined with work activities). For example, under the Senate Finance Committee approach, an individual could participate in the following sequence of primary activities: three months of rehabilitative services, 24 months of vocational training, and two months of

job search. The House bill only allowed any, or all, of these activities combined, to count for three months in a 24-month period.

Another difference between the House bill and Senate Finance bill was the determination of how states will be rewarded with a credit to reduce work participation rates. The House bill retained a caseload reduction credit, but limited the credit to more recent caseload declines to continue to pressure states to reduce their TANF caseloads. (This issue is one of the few changes from the Administration's proposal. The Bush plan eliminated the caseload reduction credit and replaced it with an employment credit.) The Senate Finance bill eliminated the caseload reduction credit and replaced it with a capped employment credit, which would have allowed states to reduce work rates based on the number of families employed after leaving welfare, with a larger credit provided when families achieve higher earnings.

Although the details of the work rates appeared to be the main issue of contention, there were significant other differences between the two bills. See Table 2. While both bills proposed to maintain level TANF block grant funding, the Senate bill provided a greater, although still insufficient increase in childcare funds. In addition, the Senate bill would have allowed states new options to provide benefits to recent legal immigrants, while the House bill retained the immigrant restrictions present in the current law. Both bills included substantial funds to promote marriage. The House bill, however, focused the funding solely on marriage promotion, while the Senate Finance bill focused funding on healthy families including healthy marriages.

Potential Consequences of These Differences

At first glance, the differences in these two bills may not seem drastic enough to support the gridlock that emerged inside the Beltway. Both bills required 70% work rates and 24 hours in primary activities. Both bills provided for frozen TANF funding with inadequate childcare funding increases. Both bills dedicated substantial additional funding to promoting healthy families and marriage. Finally, neither bill softened time limits or the elimination of benefit entitlement—two hallmarks of the 1996 law.

A closer examination, however, reveals how the bills could have led to sharply divergent state approaches. The way in which work participation is measured is likely to shape the approaches of state or local TANF programs on work preparation activities, and these approaches, in turn, can affect long-term employment and wage outcomes for low-income families.

Under the House bill, with limits on primary activities and the 40-hour work requirement, families would have had limited access to education, training or barrier-removal activities as their primary work activity. Pressure to meet work rates would have likely driven (as intended) states to run massive unpaid "workfare" programs for all families not obtaining employment.[10] The House bill would have also provided states with tremendous incentive to reduce caseloads without regard to the employment status or circumstances of the families no longer receiving welfare.

The Senate Finance bill would have given states greater incentives to focus their programs toward poverty reduction. The Senate Finance bill provided states a greater flexibility to allow recipients to participate in education, training, and barrier-removal activities. Replacing the caseload reduction credit with an employment credit would effectively shift the focus from caseload reduction to poverty reduction by rewarding states when employed families leave welfare, as well as increasing states rewards for increased family earnings.

Notably, nothing in the Senate Finance bill barred a state from designing a program with the requirements and limitations enumerated in the House bill. If it so chooses, any state can limit access to education or barrier-removal services, or require 40 hours per week of work activity. The Senate Finance bill gave states choices, while the House bill limited state discretion in designing a welfare-to-work approach.

POLICY AND IDEOLOGICAL DIFFERENCES REFLECTED IN THE BILLS

In some respects, the differences between these two bills reflect traditional policy and ideological differences between liberal and conservative analyses of the underlying causes of poverty and the appropriate responses

to it. In other respects, just the opposite is true. With respect to welfare, conservatives and liberals typically disagree over the causes of poverty and appropriate responses to address it. In addition, liberals and conservatives typically differ about the amount of flexibility that should be afforded to states in administering federal funds. Conservatives generally prefer to give power to states, while liberals prefer a strong federal role in social safety-net programs.

Causes of Poverty

Differing views on the causes of poverty are reflected in the two bills' approaches. The conservative view is that "behavior problems and moral failings lie at the heart of the underclass," and that welfare policy should focus on the goals of marriage, work, religion, and the development of virtue.[11] Robert Rector, of the conservative Heritage Foundation, argues that, "out-of-wedlock childbearing and single parenthood are the principal causes of child poverty and welfare dependence in the U.S."[12] Moreover, conservatives label welfare dependency as a key problem, essentially claiming that welfare causes poverty.[13] Thus, to conservatives, marriage promotion and welfare caseload decline are important issues, and are reflected in the House bill. In addition, work preparation is largely framed as a task of improving behavior with strict work mandates rather than providing training or services. The House bill emphasizes paid and unpaid work and gives little flexibility for education and training or skills development. Conservatives typically criticize the "permissive entitlement" philosophy that views "low-income persons as victims of social injustice."[14]

Indeed, liberals see low-income persons as victims of social injustice. They have traditionally "believed that social problems arise from flaws in societal institutions (i.e., labor markets, barriers to health care) not from flawed individuals or overly permissive social programs . . ."[15] Thus, liberal responses have tended to focus on providing assistance in terms of benefits and services, and addressing labor market barriers through increased skills, rather than attempting to change behavior.

State Flexibility

Typical ideological differences between liberals and conservatives do not comport with the different approaches of the proposed bills that are taken to balance state flexibility with federal mandates. In the 1996 welfare law, conservatives argued for state flexibility and pushed welfare program design to the state level. Fearing harsh state actions under welfare reform, liberals argued for a federal welfare safety net and increased federal protections.

In the current reauthorization debate, however, the positions on federalism have flip-flopped from those held by each side in the 1996 welfare law debate. In 1996, proponents of the TANF block grant strongly argued for state flexibility, while welfare advocacy groups strongly argued for maintaining federal directives. Now, conservatives seek to impose detailed federal mandates and limit state flexibility, while liberals are defending state performance and seeking to maintain and expand state flexibility.

These anomalous positions on federal control and state flexibility arise, in part, because each side has pragmatically focused on the likely policy result of each scenario. Progressives embrace expanded state flexibility, believing that the welfare debates in the states tend to be "less ideological and more pragmatic, and . . . as caseloads have fallen and more people have gone to work, the discussions were less divisive and more focused on what could be done better in the next stage."[16] Acknowledging that state flexibility is often cited as a conservative principle, Robert Rector argues that state welfare institutions are "more corrupted than federal programs" with an ethos of permissive entitlement.[17] He argues that state flexibility in TANF reauthorization may conflict with furthering a conservative agenda and "should never be allowed to trump the basic [welfare reform] principles of marriage, work, faith, character, and cost control."[18]

POLITICS, NOT POLICY, LED TO THE IMPASSE

Despite specific differences between the two bills, and the ideological differences they reflect, the underlying cause of the current impasse is the Bush Administration's insertion of the "who is tougher on work" rhetoric, and the

perceived political advantages of framing the debate in those terms. The Bush proposal unexpectedly shifted the focus of the TANF reauthorization from a discussion of which modifications could improve outcomes for families to a debate about which political party is "tougher on work." According to Mark Greenberg, a leading welfare policy expert of the Center on Law and Social Policy, given the initial degree of consensus around the central issues surrounding TANF reauthorization, the Administration's proposal "created divisive issues that were not there and did not need to be there."[19]

Greenberg commented that:

> Had anyone other than the administration proposed a plan like this, it would have been dismissed out of hand. There have been many criticisms of state performance over the past five years, but two things seemed incontestable: Welfare caseloads had fallen beyond anyone's predictions and there had been a historically unprecedented increase in work among single-parent families. . . . [N]o one was suggesting that states had not been serious about requiring work.[20]

Greenberg concluded that liberals and moderates would never succeed in appearing tougher on work than conservatives, but the Senate approach is the better choice if the debate is framed around which approach would help people get jobs at which they can make ends meet.[21]

Partisan politics in an election year may not have been the sole or primary motivation in the design of the Bush Administration's proposal on TANF reauthorization, but politics took over once the proposal was put forward. Being "tough on work" and punishing welfare recipients for not working has long been viewed as an easy way to score political points; many in Washington were not going to pass up the chance to do so once it presented itself. Moreover, the Administration may have preferred a stalemate, creating an opportunity to revisit TANF reauthorization next year with the possibility of a Republican-controlled Senate.

The National Governors Association and the American Association of Public Human Services Agencies attempted to refocus the debate on the content of the Bush proposal and the impact it would have on successful work

programs.[22] However, this attempt had little impact on the debate, and the paradigm continued to focus on who could demonstrate that they were "tougher on work." While the Senate Finance bill responded to this paradigm (for example, by matching the House bill in raising the work rates to 70% and requiring 24 hours weekly in primary work activities) the Administration and conservatives blasted the Senate Finance bill, suggesting a one-year extension would be better than a "bad bill."[23]

MISSED OPPORTUNITY AT A CRUCIAL TIME

TANF reauthorization provided an opportunity to better serve low-income families and to assist families leaving welfare for work to also escape poverty. Passing an extension that merely provides a static continuation of TANF is a setback. Funding has been frozen for six years, and additional funding is needed to keep pace with inflation and the tremendous growth in childcare needs due to more low-income single mothers entering the workforce. Moreover, over the last year, the uncertainty of potential changes under reauthorization has already served as a brake on program improvements, and additional delay is likely to further deter innovation.

While many people have proclaimed welfare reform's success over the last five years, others have cautioned that the real test will occur when families begin reaching the five-year time limit, when there is an economic downturn, or when state budgets come under greater financial pressure. All three of these things are occurring now. Program modifications to respond to these circumstances are crucial, yet the uncertainties around reauthorization present powerful inertia against change. It is time to heed the lessons learned by research and experience. It is time to implement changes to assist low-wage workers not on welfare, and to address the needs of families with barriers to employment who are facing welfare time limits. Congress' failure to reach a timely bipartisan agreement reauthorizing the TANF represents a missed opportunity to strengthen welfare reform as it faces some of its biggest challenges.

Table 1
Summary Comparison of Key TANF Reauthorization Bill Provisions

Work Requirements	**Current Law**	**House Bill (H.R. 4737)**	**Senate Finance Bill**
Work participation rate	50% (all families) plus 90% (2-parent families)	70% for all families (no separate 2-parent family rate)	70% for all families (no separate 2-parent family rate)
Number of hours required weekly in work activities (total)	30 hours (20 hours for single-parent with child under age 6)	40 hours	30 hours (20 hours for single-parent with child under age 6)
Number of hours in primary activities	20 hours	24 hours	24 hours
Countable primary work activities	Primary activities include paid and unpaid work, vocational education training up to 12 months, job search up to 6 weeks a year, unpaid work experience and community service.	Limits primary activities to paid and unpaid work, supervised work experience and community service. Allows vocational education training, job search and barrier-removal activities to count for 3 months in a 24-month period.	Expands current primary activities to also include education for up to 24 months, job search for up to 8 weeks a year, certain barrier-removal activities for up to 6 months.
Credits to reduce required work rate	Caseload reduction credit reduces required work rate by extent of caseload reduction under TANF since 1995.	Caseload reduction credit reduces required work rate by extent of caseload reduction for prior three years.	Capped employment credit reduces work rate based on employment rate after leaving welfare with more credit for higher family earnings.
Sanctions	States must sanction families that do not participate in work; may use partial or full-family sanction.	States must impose full-family sanction on families that do not participate in work.	States must sanction families that do not participate in work; may use partial or full-family sanction.

Table 2
Summary Comparison of Key TANF Reauthorization Bill Provisions

Other Provisions	Current Law	House Bill (H.R. 4737)	Senate Finance Bill
Block grant funding	$16.5 billion per year	$16.5 billion per year	$16.5 billion per year
Child care funding	For 2002, $2.7 billion mandatory and $2.1 billion discretionary funds authorized	Increases mandatory funds by $1 billion over 5 years; increases discretionary funds by $2.4 billion over 5 years (if authorized)	Additional $5.5 billion mandatory funds over 5 years; maintains discretionary funds (if Congress authorizes)
Immigrants	States may not provide TANF, Medicaid or SCHIP benefits to most legal immigrants during first five years in U.S. State option to provide benefits after 5 years.	States may not provide TANF, Medicaid or SCHIP benefits to most legal immigrants during first five years in U.S. State option to provide benefits after 5 years.	State option to provide TANF-funded benefits to legal immigrants and Medicaid/SCHIP benefits to pregnant women and children who are legal immigrants regardless of date of entry.
Marriage and family formation (additional funding for abstinence education in all bills not addressed here)	States may use TANF funds to prevent out-of-wedlock births and to promote two-parent families.	Earmarks up to $1.5 billion over five years including $500 in state or TANF funds) (to promote healthy marriage.	Provides $1 billion over five years to promote stronger families with an emphasis on healthy marriages.

[1] Telephone Interview with Mark Greenberg, Center on Law and Social Policy (Aug. 19, 2002) (notes on file with the author).
[2] WORKING TOWARD INDEPENDENCE 15 (Feb. 26, 2002) (the President's plan to strengthen welfare reform), *available at* http://www.whitehouse.gov/news/releases/2002/02/.
[3] *Id.* at 19–20.
[4] *Id.* at 16–17.
[5] *Id.* at 5–11.
[6] *Id.* at 16–17.
[7] For example, recommendations to expand the role of education and training, increase services for the hard-to-employ, enhance state flexibility to reward work and benefit children and to set reasonable participation standards are among those made by Manpower Demonstration Research Corporation, a leading welfare research organization. *See* GORDON L. BERLIN, MANPOWER DEMONSTRATION RESEARCH CORP., WHAT WORKS IN WELFARE REFORM: EVIDENCE AND EARLY LESSONS TO GUIDE TANF REAUTHORIZATION (June 2002), *available at* http://www.mdrc.org/Reports2002/TANF/TANFGuide_Full.pdf. The recommendations in this report are based upon findings from 29 separate welfare reform evaluations involving about 150,000 people in 11 states and two Canadian provinces.

[8] For more detailed analyses and differing perspectives on these two bills, *see* SHAWN FREMSTAD ET AL., CTR. ON BUDGET & POLICY PRIORITIES, ONE STEP FORWARD OR TWO STEPS BACK? WHY THE BIPARTISAN SENATE FINANCE BILL REFLECTS A BETTER APPROACH TO TANF REAUTHORIZATION THAN THE HOUSE BILL (Aug. 2002), *available at* http://www.clasp.org/DMS/Documents/1028928846.02/doc_13reasons.pdf; ROBERT RECTOR, HERITAGE FOUND., THE BAUCUS "WORK" ACT OF 2002: REPEALING WELFARE REFORM (Sept. 3, 2002), *available at* http://www.heritage.org/Research/Welfare/.

[9] *See* HEALTH & HUMAN SERV. OFFICE OF PLANNING, RESEARCH AND EVALUATION, TANF WORK PARTICIPATION RATES FOR FY 2000, *available at* http://www.acf.dhhs.gov/programs/opre/particip/im00rate/table1a.htm (last updated Nov. 16, 2001). Since caseloads have declined significantly in all states, state participation requirements are often wiped out or greatly reduced when adjusted by this "caseload reduction credit." *Id.* For FY 2000, the work rate was reduced to zero in over half the states. *Id.* Only about a dozen states had an adjusted work rate above 10 percent. *Id.* Despite these reduced requirements, states actually achieved higher work rates, an average of 34 percent nationally. *Id.* (For FY 2000, the rate states were required to meet was set at 40 percent.) *Id.* All states have met their adjusted rates, and most have achieved well above their adjusted work rates. *Id.*

[10] *See* BERLIN, *supra* note 7, at 42. "Workfare" is unpaid work which welfare recipients are required to perform in exchange for receiving benefits. Since workfare, but generally not training or other work-preparation activities, would have counted as primary work activities under the House Bill, and as workfare is less costly than providing subsidized employment, states could be driven towards massive use of workfare for those recipients who have not found unsubsidized employment. *Id.* While conservatives advocate increased use of workfare, little in the research supports the notion that it leads to increases in unsubsidized private employment or that recipients learn new skills. *Id.*

[11] Robert Rector, *Implementing Welfare Reform and Restoring Marriage*, in PRIORITIES FOR THE PRESIDENT ch. 4, 8 (Stuart M. Butler & Kim R. Holmes eds., 2001), *available at* http://www.heritage.org/research/features/mandate/priorities. CFM.

[12] Testimony of Robert Rector, Heritage Foundation, before the Subcommittee on Human Resources of the House Committee on Ways and Means (Mar. 15, 2001), *available at* http://www.heritage.org/Research/Welfare/Test031501b.cfm; *see also* Rector, *supra* note 11.

[13] Testimony of Robert Rector, *supra* note 12; *see also* MIMI ABRAMOVITZ, UNDER ATTACK, FIGHTING BACK 19 (2000) (discussion of ideological arguments).

[14] Rector, *supra* note 11, at 17.

[15] Abramovitz, *supra* note 13, at 21.

[16] Mark Greenberg, *Bush's Blunder*, 13 AM. PROSPECT 13, July 15, 2002 (Online), *at* http://www.prospect.org/print/V13/13/greenberg-m.html (last visited Nov. 14, 2002) (on file with the Seattle Journal for Social Justice).

[17] Rector, *supra* note 11, at 3.

[18] Rector, *supra* note 11, at 9. Rector discusses this tension in a discussion of divergent approaches among conservatives, discussing the "procedural" approach of limiting or abolishing welfare programs versus the "behavioral content" approach (which he advocates) of addressing issues of work ethic, illegitimacy, and other behavior. *Id.*

[19] Greenberg Interview, *supra* note 1.

[20] Greenberg, *supra* note 16.

[21] *Id.*

[22] Robert Pear, *Study by Governor Calls Bush Welfare Plan Unworkable*, N.Y. TIMES, Apr. 4, 2002. *See also* NAT'L GOVERNORS ASS'N & AM. PUB. HUMAN SERV. ASS'N,

WELFARE REFORM REAUTHORIZATION: STATE IMPACT OF PROPOSED CHANGES IN WORK REQUIREMENTS, APRIL 2002 SURVEY RESULTS (2002), *available at* http://www.aphsa.org/reauthor/ngaaphsasurvey.asp.

[23] Mary Leonard, *Bush Seeks Strict Rules on Welfare*, BOSTON GLOBE, June 19, 2002, at A1; Elisabeth Bumiller, *Bush Sharply Criticizes Senate Version of Welfare Bill*, N.Y. TIMES, July 30, 2002.