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House Bill to Reauthorize TANF Makes Improvements But Doesn't Go Far Enough

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A bill[1] to reauthorize the Temporary Assistance for Needy Families (TANF) program that House Ways and Means Committee Chair Kevin Brady and Human Resources Subcommittee Chair Adrian Smith introduced on May 17 makes some improvements in TANF, but doesn't go far enough. On the positive side, it holds states accountable for TANF recipients' employment outcomes and begins to constrain how they use federal block grant funds (and, to a lesser degree, state TANF funds). On the negative side, it adds no new money to the TANF block grant, which has been funded at the same level since 1996 and has lost almost 40 percent of its value due to inflation, even as the number of poor children remains roughly unchanged. The bill also fails to hold states accountable for assisting families in need, and it maintains important elements of TANF's rigid work requirements, albeit with more options for how participants can meet them.

More specifically, the bill:

- **Leaves the amount of the block grant frozen and eliminates the TANF Contingency Fund.** While the bill leaves both the amount and the allocation of the federal block grant unchanged, all states would see a small reduction in their block grant due to the creation of a new technical assistance fund. (An earlier draft of the bill included a provision to reallocate part of the block grant funding based on states' child poverty rates, but this is not in the bill that was introduced.) The bill also eliminates the $608 million Contingency Fund and shifts the funds to child care.
- **Requires specified spending levels in "core" areas.** The bill requires states to spend 25 percent of their federal and state TANF funds on a core set of activities intended to support work and provide basic assistance to families. A core spending requirement is a positive step, as one of TANF's biggest failures in its first three decades has been states' large-scale diversion of TANF funds away from core welfare reform activities and toward other areas, often unrelated to helping the poorest families find work or meet their basic needs. However, the bill sets the requirement at too low a level: only five states don't currently meet the 25

[1] H.R. 5861, The Jobs and Opportunity with Benefits and Services (JOBS) for Success Act. The bill renames TANF the JOBS Program.

percent threshold. More importantly, states that spend just 25 percent of TANF funds on basic assistance and employment-related programs and supports typically serve only a small fraction of low-income families with children. A better strategy would be to gradually increase this threshold over the next several years to 35 percent — at this level, 20 states would have to raise their spending on these core areas — and require states to target those funds to families receiving income assistance through TANF.

- **Limits state spending in specified areas.** In order to increase accountability for federal funds, the bill prohibits states from directly spending federal TANF funds on child care and child welfare services or activities. Instead, it allows them to transfer up to 50 percent of their federal TANF funds to federal programs that provide these activities and services and to Title I of the Workforce Innovation and Opportunity Act (WIOA). The transfer for child welfare is limited to 10 percent of a state's federal block grant amount. Currently, between a third and half of the states (depending on what is included) spend more than 10 percent of their federal TANF funds on child welfare; three states spend more than 50 percent on child care. (Data are not available to assess the impact of the WIOA transfer.) The bill imposes no limits on the use of *state* TANF funds for these activities and services, so states may be able to shift their federal and state spending, reducing the provision's potential impact.

- **Limits TANF spending to families below 200 percent of poverty.** The bill requires states to spend all federal and state TANF dollars on families with incomes below 200 percent of the poverty line. Current rules require states to spend TANF funds on "needy" families, but states define "needy" and may provide people over 200 percent of poverty with some services, such as college scholarship programs and pre-K programs. The proposed change would better target the funds, but likely will have a limited impact in most states.

- **Holds states accountable for employment-related outcomes instead of participation in work activities.** The bill replaces TANF's work participation rate with four outcome measures related to recipients' employment, job retention, earnings, and attainment of a high school diploma or the equivalent (for parents under age 24). It requires states to meet negotiated targets in all four areas starting in 2020. (States would face a loss of federal block grant funds if they fail to meet the targets.) This positive change should enable states to focus less on process — that is, getting people into activities that count toward meeting the work participation rate — and more on helping parents with diverse needs find and maintain employment. An important omission, however, is the lack of a performance measure related to program access. The share of poor families with children that receive TANF has plummeted since the mid-1990s, which has left many families without basic assistance *or* employment services. Without an access measure, states could improve their performance on the bill's employment-related targets by keeping the most disadvantaged families out of the program entirely. TANF will never realize its full potential if it doesn't serve families in need in the first place.

- **Maintains rigid work requirements, though with more work activity options.** The bill requires states to conduct an assessment and develop an employment and service plan for all work-eligible TANF recipients. While it recognizes a broader range of work activity options and removes the current restrictions on participation in education and training programs, it maintains rigid weekly hourly participation requirements of 20 or 30 hours for most parents. These requirements are costly to implement, ill-suited for many families, and inconsistent with the bill's universal engagement approach. By holding states accountable for participants' employment outcomes, the bill provides ample incentives for them to tailor participation requirements to families' circumstances so states succeed in helping parents find jobs; there is no need for a cumbersome, rigid hours requirement.

Despite its positive features, the bill does not directly address some of TANF's fundamental flaws. TANF remains a block grant that does not rise and fall over time with need. When the next recession hits, TANF will almost certainly fail to respond to increases in unemployment and hardship, just as it failed to respond during the last recession.[2] TANF's block grant structure also incentivizes states to serve as few families as possible, enabling them to serve just a tiny fraction of the families in need of assistance.

TANF was created with the promise that states, with greater flexibility (in at least in some areas), could do a better job of assisting families when they hit on hard times. Instead, they have used the flexibility they were given to fund state priorities in lieu of core income assistance and employment programs, leaving too many of the poorest families to fend for themselves. The bill takes some steps to limit state flexibility and redirect some federal funds to TANF's core purposes, but only a major overhaul that recognizes the individual needs of each struggling family and prioritizes the goal of reducing poverty and deep poverty among children would truly fix TANF.

Federal Funding and Required Spending Remain at 1996 Levels, Would Continue Eroding in Value

The bill extends the TANF block grant through 2023 at the current funding level of $16.6 billion, which has remained unchanged since TANF's creation in 1996. Thus, the block grant — which has already lost almost 40 percent of its value due to inflation — would continue to erode every year, meaning that fewer resources would be available to help families in need.

There are roughly as many families below the federal poverty line as there were when TANF was created, but the erosion of the block grant means that states cannot provide the same level of assistance and services as in 1996. The bill makes the situation worse by requiring states to bolster services without providing them any new money to do so. The bill also cuts funding to 20 states by eliminating the $608 million Contingency Fund and adding those funds to the child care entitlement, which would provide additional child care funds to all the states. In addition, it requires states to obligate federal block grant funds within two years and spend them within three years, though they can carry over up to 15 percent of funds for future use as a set-aside for economic downturns.

The bill retains TANF's "maintenance-of-effort" (MOE) requirement that states continue to spend 75 percent of their historical spending on TANF. (This MOE requirement is not indexed to inflation, so it too has eroded over time.) To hold states accountable for contributing their required share of funds, the bill reduces the share of a state's MOE spending that can come from third-party non-governmental sources — such as food assistance provided by food banks or youth service programs funded by a non-profit — by 25 percentage points each year beginning in 2020,

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[2] LaDonna Pavetti, Ife Finch, and Liz Schott, "TANF Emerging from the Downturn a Weaker Safety Net," Center on Budget and Policy Priorities, March 1, 2013, https://www.cbpp.org/research/tanf-emerging-from-the-downturn-a-weaker-safety-net?fa=view&id=3915.

completely eliminating it in 2023. Sixteen states met part of their MOE requirement with third-party funds in 2015, a Government Accountability Office report found.[3] In three of them (Georgia, Alabama, and Missouri), third-party funds accounted for more than a third of the state's MOE spending.

Spending Requirements and Constraints a Step Forward But Not Sufficient

The bill imposes constraints on how states can spend federal and state TANF dollars by requiring them to spend a specified amount in targeted areas and limiting spending in other areas. Both changes move in the right direction, but they do not go far enough to make a substantial difference in how TANF funds are spent. This is because the mandated share of spending in targeted areas is too low and the transfer and direct spending limits only apply to federal dollars, so states could meet the requirements by shifting federal and state dollars around.

The bill also constrains spending by requiring states to spend all federal and state TANF dollars on families with incomes below 200 percent of poverty. States currently can use TANF funds to assist families with incomes above 200 percent of poverty, but the majority likely already target most of their spending on families at or below 200 percent of poverty, making it unlikely that this change will redirect many TANF funds. Moreover, given the reduction in the value of the TANF block grant over the last 22 years, even if states shift funds to different purposes, it can fund only a modest level of assistance and supports compared to the number of families struggling with low incomes and inadequate or unstable employment.

Core Spending Requirement Set Too Low

The bill requires states to spend 25 percent of federal TANF funds and 25 percent of state MOE funds in three core areas: employment assistance, supportive services (excluding child care), and cash assistance. The specific spending categories are: cash assistance, case management, work supports, supportive services, wage subsidies, work or work preparation activities, and non-recurrent short-term benefits.[4] The exclusion of child care is notable, as child care is a critical and effective work support for parents.

Requiring a certain amount of spending in these core areas is a constructive way to redirect federal and state funds to TANF's core purposes. However, the standard that the bill sets is too low to make a substantial difference. Only five states (Illinois, Indiana, Kansas, North Carolina, and Texas) spent less than 25 percent of their federal and state TANF funds on the core areas as defined by the bill in 2016, the most recent year for which TANF spending data are available. But 15 states serve just ten or fewer families in their TANF program for every 100 families in poverty. A more effective strategy would be to set the spending requirement at 25 percent in the first year and then increase it by 5 percentage points in each of the next two years, reaching 35 percent at the end of

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[3] "Temporary Assistance for Needy Families: Update on States Counting Third-Party Expenditures toward Maintenance-of-Effort Requirements," U.S. Government Accountability Office, February 10, 2016, https://www.gao.gov/products/GAO-16-315.

[4] The bill defines "work supports" as transportation or work-related non-recurrent, short-term benefits. It defines "supportive services" as services such as domestic violence services, mental health, substance abuse and disability services, housing counseling services, and other family supports.

three years. Even at 35 percent, such a standard would require only 20 states to increase their spending on core activities.

The core spending requirement would also be more effective if it targeted families that receive (or qualify for) "assistance." As the bill is currently drafted, a state could meet the requirement by targeting spending on work-related activities for families with incomes up to 200 percent of the federal poverty line, such as workforce development services or college financial aid, without investing in services for those in greatest need of help getting connected to work. If the provision's goal is to ensure that states fully engage cash assistance families in work activities, it should require states to target their work-related spending on them.

Spending Limits Useful But Should Be Expanded

In an effort to increase accountability and adherence to agreed-upon federal standards, the bill prohibits states from directly spending federal TANF funds on child care and child welfare services or activities, but it allows states to transfer up to 50 percent of their federal TANF funds to three federal programs: the Child Care and Development Block Grant (CCDBG), the Stephanie Tubbs Child Welfare Services (CWS) program, and Title I of WIOA. (The bill imposes no limits on the use of *state MOE funds* for these activities and services.) The bill limits the transfer to CWS to 10 percent of a state's federal block grant amount. Currently, states can transfer up to 30 percent of their federal TANF funds to CCDBG and the Social Services Block Grant (SSBG); the bill eliminates the SSBG option entirely.

Because TANF has so few funding restrictions for states, they have been able to use their federal and state TANF funds to pay for state priorities even if they are not aligned with helping families meet their basic needs and preparing them for work. While the bill puts some constraints on TANF spending, they are insufficient in some areas and unnecessarily restrictive in others.

The bill could improve its funding restrictions by:

- *Expanding the spending constraints to programs other than child welfare.* For much of the last two decades, states have used the flexibility that the TANF block grant afforded them to fill budget holes and shift funds away from TANF's core purposes. The bill's 10 percent limit on transfers to child welfare services takes a small step towards limiting those practices, but other activities not directly related to preparing parents for employment or helping families to meet their basic needs should also be curtailed. There is no compelling reason to treat spending on child welfare differently than spending on other state priorities, such as broad-based pre-K and college scholarships. While those programs are worthwhile, states should target their limited TANF funds at a narrower set of activities designed to help poor families with children make ends meet and help parents gain skills and succeed in the labor market. The limit on these uses of TANF funds should apply to both federal and state TANF funds.
- *Prohibiting spending that does not further one of TANF's four goals.* The 1996 welfare law allowed states to spend federal TANF funds on activities that the state supported with Emergency Assistance funds before 1996 even if they do not fall under one of the four TANF

purposes.[5] This grandfathered spending authority, known as "Authorized Under Prior Law" (AUPL), includes child welfare services (including foster care payments and services), emergency assistance, and juvenile justice payments and services. States have been able to use TANF funds here, even where otherwise impermissible, for more than two decades — more than enough time for a transition or phase-out. Instead, total spending for AUPL has grown in many states and represents over *half* of federal TANF spending in at least one state, Texas. The bill should phase out this AUPL spending entirely, while giving states time to ramp down.

At a minimum, the bill should make clear that AUPL spending on child welfare (including foster care) falls within the bill's prohibition on direct spending of federal TANF funds on child welfare and its 10 percent limit on fund transfers to child welfare services. Failure to include the AUPL spending within the prohibition would significantly undercut the bill's effort to limit the use of federal TANF funds on child welfare services.

- *Requiring that TANF funds transferred to WIOA be used for TANF recipients and deeming participants in WIOA-funded programs as meeting their TANF work requirements.* Historically, the workforce system has served few TANF recipients, both because many have significant employment barriers and because of TANF's onerous reporting requirements. Any federal TANF funds that states transfer to WIOA should serve TANF cash assistance recipients. In addition, federal policymakers can encourage workforce agencies to serve more TANF recipients by reducing the reporting burden on them, such as by deeming TANF recipients participating in WIOA-funded programs as meeting their work requirement. This also would apply the same expectations to TANF recipients as to all other individuals that the workforce system serves.
- *Eliminating the limit on the share of federal TANF funds that states can transfer to child care.* There is no compelling reason to limit the amount of federal TANF funds that states can spend on child care. Child care is effective at helping parents find and maintain employment, but funding isn't adequate to serve all families that need child care. Indeed, even with the recent increase in child care provided in the fiscal year 2018 appropriations process, the program is projected to serve just 1 in 5 eligible children.

Employment Outcomes Are Vast Improvement But Access Measure Also Needed

This bill replaces the TANF work participation rate, for which states have been held accountable since TANF's inception, with a set of four outcome measures. State TANF directors across the political spectrum, researchers, and advocates have requested such a change for a number of years. The four measures are:

- The percentage of work-eligible individuals in unsubsidized employment in the second quarter after exiting TANF cash assistance.

[5] Those four purposes are: "(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out of wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two parent families." The bill adds a fifth TANF goal of reducing child poverty by increasing employment entry, retention, and advancement of needy parents.

- The percentage of work-eligible individuals in unsubsidized employment during the second quarter after exiting TANF cash assistance who are also employed in the *fourth* quarter after exit.
- Median earnings of these leavers in the second quarter after exit.
- The percentage of work-eligible individuals under age 24 who are enrolled in a high school degree or equivalency program and complete the program while on assistance or within one year after leaving aid.

Unlike the work participation rate targets, states would negotiate their performance targets for each of the four indicators. The bill requires the Department of Health and Human Services, in determining the targets, to consider other states' targets as well as the economic and demographic characteristics of the families that a state's program serves. It maintains the current penalty structure, which reduces a state's block grant for failure to meet its negotiated targets but also provides penalty relief in the form of reasonable cause exceptions and "corrective compliance plans" for states to achieve their targets.

While replacing the work participation rate with outcome performance measures is a substantial step in the right direction, there are two ways in which this provision could be improved. First, the bill should add a performance measure related to program access, such as the TANF-to-poverty ratio, which compares the number of families receiving TANF to the number of families in poverty. In 1996, 68 families received cash assistance for every 100 families in poverty; now *just 23 families* do. Without an access measure, states can improve their performance on the employment-related targets by keeping the most disadvantaged families out of the program entirely. TANF will never realize its full potential if it doesn't serve families in need in the first place; families need to be able to turn to TANF for help to get back on their feet when they lose a job or face a family or personal crisis, and states should be discouraged from placing roadblocks in their way.

Second, states that fail to meet their negotiated outcomes should be required to increase the percentage of their state and federal funds spent on core activities, rather than having their block grant cut. Taking resources away from states only makes it harder for them to prepare parents for work and could have the perverse impact of encouraging them to serve fewer families in need.

Inflexible Work Hours and Burdensome Documentation Conflict With Bill's Universal Engagement Approach

The bill seeks to have states serve all work-eligible individuals and broadens the range of work activities that a state can offer. But it maintains rigid hourly participation requirements and requires even more documentation than under current law, undermining states' ability to focus on meeting the full range of employment-related needs of cash assistance recipients. In its provisions related to work activities, the bill:

- *Promotes universal engagement.* The bill expects all work-eligible individuals receiving TANF assistance to participate in work or work-preparation activities. It requires states to conduct an initial assessment to develop an individual opportunity plan that includes hourly participation requirements and to meet with the recipient periodically to review the plan.

Current rules only require states to engage enough participants to meet their target work participation rate for the required hours each week.

- *Enables states to use a broader range of work-preparation activities to meet a broader range of needs.* The bill maintains the current list of activities that count toward the work requirement and adds a new catch-all activity consisting of anything the state determines necessary to improve recipients' employment, earnings, or other outcomes that are part of the outcome measures. Significantly, the bill eliminates the current specified limits on work activities, such as the restrictions on education or training as a stand-alone activity and the time limits on participation in job search or barrier-removal activities.
- *Retains rigid hourly participation and documentation requirements.* While the bill drops the work participation rate, it retains the current hourly participation requirements for work-eligible individuals — most commonly, 20 hours per week for a single parent with a child under age 6 and 30 hours for all other single parents. It also continues to require states to track and report on hourly participation, expanding a state's administrative documentation burden to all those required to participate in work activities. And it adds more elements that states must report on, such as the reasons for non-participation and data related to the new outcome measures.

Universal engagement means that states should develop individually tailored plans, customized with appropriate activities and participation requirements. The bill's elimination of the work activity constraints should make it easier for a state to place recipients in activities tailored to achieving their employment goals. However, the 20/30-hour requirement is inconsistent with this universal engagement approach. As commonly understood, this approach aims to engage parents to the best of their ability, recognizing that not all parents are immediately able to participate in work activities for a full 20 or 30 hours per week. This is especially true for parents with mental health challenges, those with medical conditions that limit the amount or kind of work they can do, those who are fleeing domestic violence, and those who are homeless or caring for a disabled child or household member.

Even if Congress wants to set a general expectation of 20 or 30 hours of participation per week, it should give states flexibility, after doing an assessment, to determine that an alternate hourly expectation is appropriate given the circumstances of the individual or family. States could be required to report on the number of parents with alternative hourly requirements and the reasons why the 20/30-hour requirement is not appropriate for the family. But it isn't clear why the federal government needs to micromanage these decisions. The bill seeks to hold states accountable for the outcomes that matter — such as whether those who leave assistance are working — and states have strong incentives to tailor their participation requirements to best meet those outcomes.

By retaining and in fact expanding the detailed hours of participation that a state must track and report, the bill will undercut a state's ability to focus on serving families with work-related activities. A frequent critique of TANF's work participation rate is that it forces states to spend too much time and money verifying and tracking participation instead of helping families prepare for and connect to employment or providing case management services. Yet the bill forces states to shoulder an even greater administrative burden. Congress should allow states to focus on helping families to achieve successful employment outcomes by granting them greater flexibility to decide how to monitor and verify individuals' compliance with the individual opportunity plan.