

# **TANF is Broken! Is Congress Fixing the Problems – or Just “Kicking the Can Down the Road”?**

## **A Response to Senator Steve Daines**

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Many conservatives believe the 1996 welfare reform law, particularly the creation of the Temporary Assistance for Needy Families (TANF) block grant with its work requirements has been an unprecedented success and is a model for reforming other safety net programs. While the 1996 law sent a symbolic message about the importance of work requirements and time limits, in practice, neither of these elements have been implemented in the way Congress intended. In fact, TANF is not “welfare reform” at all, but a flexible funding stream that has failed to provide an adequate safety net or an effective welfare-to-work program.

TANF’s flaws have become too big to ignore – a fact that became evident during the mark-up of a bill in the House Ways and Means Committee, the Jobs and Opportunity with Benefits and Services (JOBS) for Success Act. Rep. Adrian Smith, chairman of the Human Resources subcommittee charged with developing legislation to reauthorize TANF acknowledged that there is “abundant evidence that TANF in its current form is broken.” More recently, Senator Steve Daines, who considers TANF a success in its early years, called TANF “broken” as well and introduced a modified version of the same legislation.<sup>2</sup> He further noted that Congress has only had one major reauthorization since the law’s inception, with 24 short-term extensions since 2010 alone (25, as of December 7, 2018):

Talk about kicking the can down the road. Efforts to address the persisting concerns about the program have not crossed the finish line. This must change.<sup>3</sup>

An important question about this latest attempt by Congress to reform TANF is, does the legislation “fix the problems” or just “kick the can down the road”? While the JOBS for Success Act would make some modest improvements to TANF, the bill fails to address the root causes of TANF’s problems – the block grant structure, excessive state flexibility (with no meaningful accountability), and poorly designed work requirements. Until Congress confronts these realities, TANF will remain “broken.”

This response addresses some of the points made by Senator Daines in his December 6, 2018, floor statement about TANF. It is not intended to be a comprehensive critique of TANF or a full analysis of the JOBS for Success Act. Each statement is followed by a “PC Response – short for “Peter the Citizen.”

**Senator Daines:** “...once widely viewed as successful, our Nation’s primary welfare-to-work program is now broken.”

**PC Response:** TANF was “broken” from its inception – all of the problems the “JOBS for Success Act” seeks to address are a direct result of the bill Congress drafted in 1996. After

decades of claiming that TANF is an “unprecedented success” and a “model” for reforming other means-tested programs, it is refreshing that conservatives in Congress now acknowledge that TANF is indeed “broken.”

### **TANF and its Impact on Caseloads, Poverty, and Employment**

**Senator Daines:** “After TANF became law, welfare caseloads plummeted, child poverty declined, and employment among low-income, never-married parents went up.”

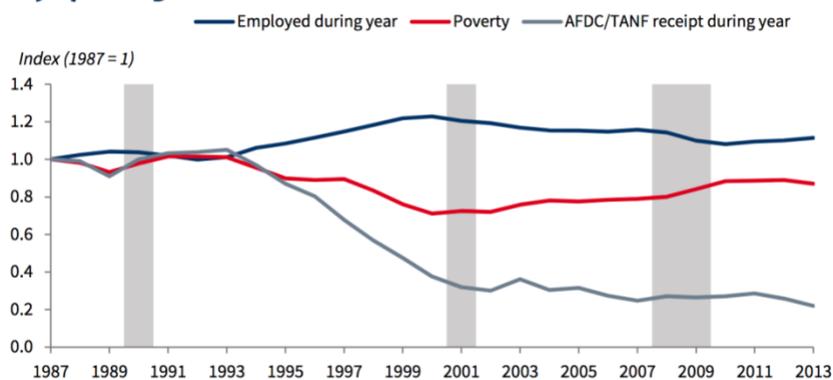
**PC Response:** The fact that some outcomes changed in a positive direction “after TANF became law” does not mean that TANF *caused* those changes. There are many economic, demographic, and policy-related changes that influence caseloads, poverty, and employment rates. In particular, TANF was enacted in the midst of a period of strong economic growth and increased aid to the working poor, most notably expansions in the Earned Income Tax Credit (EITC), child care subsidies, and Medicaid and related health care coverage. And, states were already experimenting with “welfare reform” through waivers; they didn’t need the 1996 law to test new welfare policies for cash assistance. Moreover, each of these favorable trends started well before TANF was enacted, and the positive employment and poverty trends ended around 2000 and then began to deteriorate (two years before TANF’s work requirements were fully phased in).

Even if one accepts a simplistic before-and-after approach to establishing causality, however, it is useful to put these trends in perspective. A figure from a recently released report by the President’s Council of Economic Advisers (CEA) does this:

Figure 12 shows for single mothers with children, (i) AFDC/TANF receipt, (ii) employment, and (iii) poverty, each expressed as a rate in the population and then indexed to 1987 values. Between 1996 and 2000, single mother caseloads fell by 53 percent. Over the same period, their employment rate increased by 10 percent, and their poverty rate fell by 20 percent.<sup>4</sup>

The CEA highlights the fact that, for female-headed families, between 1996 and 2000, “caseloads fell by 53 percent” while “their employment rate increased by 10 percent and their poverty rate fell by 20 percent.” These trends, however, only emphasize the fact that the number receiving assistance fell much faster than the number gaining employment or lifted out of poverty. Indeed, by 2013, the endpoint of the CEA analysis, the employment and poverty rates are about the same as in 1996, but the percent receiving welfare declined by about 75 percent. If anything, the CEA figure should be a cautionary tale about TANF (and its work requirements).

**Figure 12. Index of Percent of Female-Headed Families Employed, in Poverty and Receiving AFDC/TANF, 1987–2013**



Sources: Gabe (2014) tabulations of administrative records, survey data; National Bureau of Economic Research; CEA calculations.

Note: AFDC/TANF receipt, poverty, and employment are indexed to 1987 levels. Grey shaded regions denote a recession for at least four months of a given year.

**Senator Daines:** “As we debate modernizing the TANF Program, we should not forget the doom and the gloom predicted by some liberals when the original 1996 reforms were debated. Perhaps most famously, our former colleague, Senator Daniel Patrick Moynihan, predicted that TANF would result ‘in children sleeping on grates, picked up in the morning frozen.’ Let me tell you something: Those critics were wrong – very wrong.”

**PC Response:** The story is more complicated than simply looking at trends from 1996 to 2000 and asserting the critics were wrong. As noted above, TANF was implemented in the midst of a strong economy and the initial block grant provided states a substantial windfall because it was based on caseloads in earlier years when spending had peaked. These factors alone suggest that any negative effects might be delayed – particularly because the block grant is not adjusted for inflation or demographic changes. Perhaps more important, there has been a sharp increase in spending on means-tested programs other over the last 20 years. Between 1996 and 2016, federal-state spending (in 2016 dollars) on all means-tested welfare programs grew from about \$600 billion to over \$1.1 trillion.<sup>5</sup> Excluding spending on health programs, expenditures grew from about \$300 billion to about \$450 billion, despite the fact that spending on AFDC/TANF cash assistance fell by about \$25 billion (in 2016 dollars), from about \$33 billion to less than \$8 billion. While the significant expansion in spending on means-tested programs overall has undoubtedly reduced the poverty and material hardship for millions of families and individuals, this spending primarily benefited those who work and/or who were not poor.<sup>6</sup>

The safety net, however, has become much less generous for those who don’t or can’t work. One reflection of this is the take-up rate of TANF benefits. Indeed, while welfare caseloads fell sharply, the number of families with incomes low enough to qualify for TANF has not. Table 1 shows the change in the *average monthly* number of families eligible for assistance compared to the *average monthly* number receiving assistance for selected years from 1996 to 2015. In 1996 (before TANF), about 5.6 million families were eligible to receive benefits and about 4.4 million (79 percent of those eligible) did so. By 2015, the number eligible for TANF was higher (6.1

million), but the number receiving benefits fell over 60 percent to 1.6 million (26 percent of those eligible).

Table 1: Number and Percentage of Eligible Families Participating in TANF (Average Monthly Data, Selected Years, 1996-2015)				
Year	TANF			
	Eligible (millions)	Participating (millions)	Eligible, Not Participating (millions)	Participation Rate (%)
1996	5.6	4.4	1.2	78.9
2000	4.4	2.3	2.1	51.8
2004	5.1	2.2	2.9	42.0
2008	5.2	1.7	3.5	33.0
2012	5.7	1.9	3.8	32.4
2015	6.1	1.6	4.5	26.3

Source: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Welfare Indicators and Risk Factors: Seventeenth Report to Congress*, May 4, 2018, p. A-11, available at: <https://aspe.hhs.gov/system/files/pdf/259196/WELFAREINDICATORS17THREPORT.pdf>.

As a result, the number of families that were eligible for TANF cash assistance but that did not receive it grew by 3.3 million, from 1.2 million to 4.5 million. If TANF (and its work requirements) were a success in getting needy families to work, one would expect the number eligible for assistance and the caseload to decline in tandem. The critics were right to be concerned about TANF, as many of these families were pushed deeper into poverty because there were few programs to fill the loss of TANF. Even those that went to work might have to wait over a year to see the benefits from the expanded EITC and the Child Tax Credit. The safety net should encourage work, but it should also catch families that fall on hard times and do more to help them transition back to employment.

### **TANF Work Requirements: An Epic Fail – *From the Start***

**Senator Daines:** “Yet more than 20 years after the historic 1996 reforms, we should be clear-eyed that the TANF Program suffers from neglect and loopholes, both of which are undercutting its fundamental work requirements. Today, very few States are meeting the work participation rate that is required by law. My State of Montana is one of the many that is falling short. The law calls for 50 percent of welfare enrollees to be engaged in work. In Montana, they are reaching only one-third.”

**PC Response:** TANF’s work requirements are unreasonable for recipients, unrealistic for states, underfunded, and not based on evidence about the most effective employment strategies (for more detail on these issues, see “TANF Work Requirements: An Epic Fail,” in *TANF is Broken!*<sup>7</sup>). This response is limited to TANF’s failure to engage families receiving assistance in work activities. The problem of “loopholes” did not stem from “neglect,” but from the block grant structure and poorly drafted work requirement rules. Douglas Besharov and I noted many of these problems in a 2004 report for the American Enterprise Institute – *Toughening TANF*:

The complexity of TANF's participation requirements stems largely from the politics of how the original law described participation requirements. The drafters wanted to show they were serious about reform, so they set a high putative requirement (eventually 50 percent). But they compromised on the real requirements through a slew of exclusions and exemptions that substantially watered down the 50 percent requirement (even before the impact of the caseload reduction credit).<sup>8</sup>

The following is a *very brief* description of some of the misguided provisions and loopholes that allow (or have allowed) states to meet TANF's work requirements without having to engage individuals in meaningful work activities. The most serious problem, however, is the incentive the block grant provides to states to slash caseloads to avoid having to serve needy families at all.

***Misguided Provisions.*** TANF seemingly toughened the pre-TANF/AFDC-JOBS work requirement target of 20 percent by raising it to 50 percent for the overall work rate, but it added two provisions (technically not "loopholes") that substantially watered-down this requirement – a caseload reduction credit and adding "unsubsidized employment" as a countable work activity (as opposed to making full-time employment an exemption).

***Caseload reduction credit.*** The caseload reduction credit reduces a state's required participation rate by one percentage point for each percentage point that the state's assistance caseload for the prior year (the comparison year) falls below the caseload in a base year (initially fiscal year (FY) 1995; later changed to FY 2005), not counting reductions due to federal or state eligibility changes since the base year. Throughout most of TANF's history, about 15 to 30 states have had a 0 percent target for their overall work participation rate, *meaning they had to do nothing to meet TANF's work requirements.*

***"Unsubsidized employment" as an activity.*** TANF made "unsubsidized employment" a work activity (rather than an exemption), which provided a windfall to states in meeting their work participation rates by allowing them to count those who combined work and still received welfare.<sup>9</sup> Since TANF's inception, "unsubsidized employment" has accounted for the majority of countable hours in the work rate calculation. This is significant because it is a relatively low cost "activity" (i.e., the amount of the grant for those with enough hours to count in the rate is generally small) and involves little supervision on the part of the state. In TANF's first decade, most states met the work requirements by either the caseload reduction credit alone, or for those that still had a target above 0 percent, by counting those in "unsubsidized employment."

***Loopholes (1997-2006).*** For those states that still could not meet their work participation rate targets the law created a variety of (mostly unintended) loopholes. During TANF's first decade, these included separate state programs, exempting child-only cases when an adult's needs were removed from the grant due to a sanction or time limit, the extension of section 1115 waiver policies, and loose definitions of work activities.

***Separate state programs.*** Until FY 2007, families assisted through separate state programs funded with state maintenance-of-effort (MOE) funds were not subject to TANF's work requirements. Congress was either careless in writing the law by failing to include families receiving assistance with "qualifying state expenditures" or it intentionally created a massive

loophole. By FY 2005, over half the states had such programs and their primary purpose was to remove those families from the work rate calculation that would not help them meet the work rate targets, most notably two-parent families, because the 90 percent “two-parent work participation rate” target was considered unachievable (even with a caseload reduction credit). States also moved other families that were not likely to meet the overall participation work rate to these separate state programs, including those applying for Supplemental Security Income (SSI), with employment barriers, or caring for a disabled family member.

*Work requirements limited to TANF adult recipients.* TANF work requirements were initially applied to a family with an adult receiving assistance. In some states, sanction policies and time limits removed an adult’s needs from the benefit calculation. Since no adult was receiving assistance, the family was no longer included in the work participation rate calculation, even though the adult was able-bodied and the children continued to receive assistance.

*Waiver inconsistencies.* States with section 1115 welfare reform waivers when the 1996 welfare reform law was enacted were allowed to continue their waiver policies to the extent they were inconsistent with TANF through the end of the approved project period. Twenty states continued such waivers, which included provisions related to exemptions, countable work activities, and hours of participation. This gave some states a tremendous boost. For example, in FY 2005, Massachusetts had the lowest work participation rate in the nation (according to TANF’s regular rules) at just 12.6 percent, but its pre-TANF waivers allowed it to exempt parents with a child under six years of age and ignore TANF’s strict limits on counting hours in education. Its “official” rate with waivers skyrocketed to 59.9 percent.<sup>10</sup>

*Loose work activity definitions.* When Congress wrote the TANF statute, it “defined” work activities simply by listing 12 activities, leaving it to state to develop their own definitions. Some states defined them to include bed rest and personal care activities as part of recovery from a medical problem, physical rehabilitation including massage and exercise, personal journaling and motivational reading, participation in a smoking cessation program, and other activities typically not considered “work activities.”

***Loopholes (2007-present).*** Congress *tried* to strengthen TANF’s work requirements in the Deficit Reduction Act of 2005 by recalibrating the base year for the caseload reduction credit and closing the aforementioned loopholes. Specifically, it added families in separate state programs to the work rate calculation and directed the U.S. Department of Health and Human Services to define “work-eligible individual” and each of TANF’s 12 work activities (beyond merely listing them). This simply led to new loopholes.

*Solely state funded programs.* Congress eliminated the separate state program loophole by requiring states to include families in such programs in the work participation rate calculation. This led to the solely state funded loophole, wherein families not meeting the work requirements are served with state dollars in programs *outside* the TANF/MOE structure. This does not require additional state spending. A state can simply identify an existing state expenditure that meets a TANF purpose that is not counted as MOE and then “swap” it with TANF dollars and create a solely state funded program. For example, some states have repurposed federal TANF funds that provide assistance to needy families to instead use those dollars to *supplant* state

general revenue spending on college scholarships, claiming that these expenditures advance purpose 3 (reducing out-of-wedlock pregnancies) and/or purpose 4 (strengthening marriage). This frees up state general revenue dollars outside the TANF/MOE structure for a solely state funded program for the families that previously received assistance with federal TANF funds. The Center for Public Policy Priorities describes this approach for meeting work rates as the “take-out strategy”:

Under this approach, states divide TANF recipients into two categories: those likely to meet federal work requirements and those unlikely to meet the requirements. States then provide assistance to those recipients unlikely to meet the requirements with non-MOE state funds.<sup>11</sup>

Note: The “swap” does not change overall spending, but does rearrange funding streams to allow states to game TANF’s work requirements. It is possible because of TANF’s block grant structure and excessive flexibility that permits states to determine what is “reasonably calculated” to meet a TANF purpose. College scholarships are not directly related to purposes 3 or 4 and there is no credible evidence that demonstrates that such aid actually achieves those purposes. Instead, states base their arguments on correlations showing that higher education is associated with positive outcomes related to these purposes and that if successful in increasing educational attainment, the scholarships *may* achieve their intended outcomes as well.

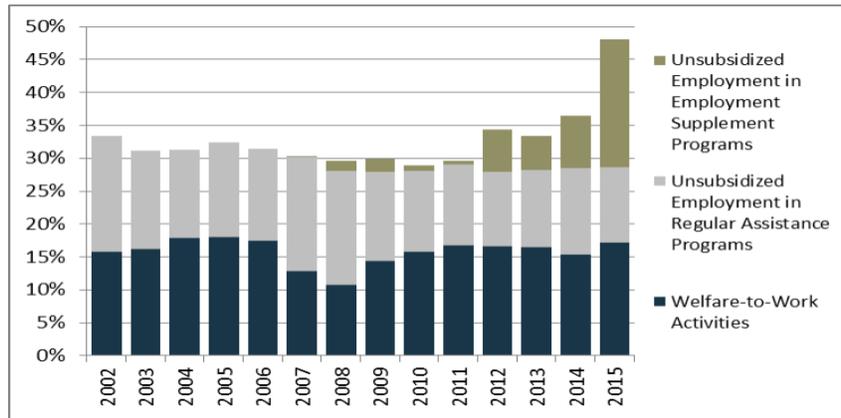
*Excess MOE provision of the caseload reduction credit.* The Deficit Reduction Act recalibrated the base year for caseload reduction credit from FY 1995 to FY 2005. In many states, caseload declines had stalled by 2005, but a regulatory provision allowed states to reduce their comparison year caseload by spending in excess of their basic MOE requirement. The “excess MOE” provision allows a state that is investing state MOE funds in excess of its basic MOE amount to include only the pro rata share of caseloads receiving assistance that is required to meet basic MOE requirements. This led many states to simply find more third-party spending to count as MOE, just so that they could artificially inflate the caseload reduction credit and thus reduce their work rate targets. And, reported MOE did rise sharply – from \$12 billion in FY 2006 to \$13.7 billion in FY 2008 to over \$15 billion in FY 2009 and most subsequent years.

*Token payments.* Some states artificially inflate their work rate(s) by finding families with children and a full-time worker, but who otherwise have no connection to the cash assistance caseload, and pay them a token benefit (e.g., \$10 a month). They are then considered to be receiving “assistance” and can be counted in the work rate calculation. (This might be described as an “add-in strategy.”) In FY 2017, token payment cases accounted for over 15 percent of national TANF/SSP-MOE caseload (and over 30 percent of families with a work-eligible individual subject to work requirements).

***The Reality.*** Despite a statutory target of 50 percent, states have typically achieved a work rate well below that – about 30 percent. Figure 1 below (from the Congressional Research Service) shows the national average TANF work participation rate from FY 2002 to FY 2015.<sup>12</sup> It divides the rate into three components: welfare-to-work activities (e.g., job search and job readiness assistance, work experience, community service, and vocational educational training), unsubsidized employment, and “unsubsidized employment in employment supplement

programs.” As the figure demonstrates, TANF has never been particularly successful in engaging families in real “welfare-to-work activities,” with only about 15 percent of those required to participate engaged in an actual welfare-to-work activity for enough hours to count. Another 15 percent have typically been in unsubsidized employment, combining work and welfare. The growth in token payment cases (called “employment supplement programs” in the figure) began in FY 2007, an unintended response to the 2005 TANF reauthorization. It does not reflect real engagement but the “token payment” gimmick used by some states to artificially inflate the work rate.

**Figure 1: TANF Work Participation Rate, by Type of Activity (FY 2002 – FY 2015)**



Source: Gene Falk, “Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities,” Congressional Research Service, February 1, 2017, p. 10, available at: [https://www.everysreport.com/files/20170201\\_R44751\\_b7093fe9349fcb8c25170eca4d9725d907ad535e.pdf](https://www.everysreport.com/files/20170201_R44751_b7093fe9349fcb8c25170eca4d9725d907ad535e.pdf).

Another indicator of TANF’s failure to engage families in meaningful work activities is the percent of those subject to work requirements that have *zero hours* of reported participation.<sup>13</sup> As Table 2 indicates, the percentage of adults/work-eligible individuals with zero hours of reported participation fluctuated between 55 and 60 percent between FY 2000 (the first year such data was reported) and FY 2014. (For FY 2015 to FY 2017, the percentage fell to about 40 percent because of the explosion in “token payment” cases.)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
% w/0 hrs.	60.3	56.8	58.3	58.8	57.5	56.6	55.3	62.1	60.5	58.2	59.0	58.0	55.1	56.7	54.7

The low level of participation in activities other than “unsubsidized employment” and the fact that the majority of those subject to work requirements have zero reported hours since TANF’s inception is again a reflection that the failure to engage non-working adults/work-eligible individuals is not a recent problem stemming from “neglect and loopholes.”

Gene Falk of the Congressional Research Service describes TANF's history as follows:

The 50% and 90% targets are aspirational, rather than evidence-based. They were not selected based on success rates of past programs in moving recipients from assistance to work. They call for higher participation rates than what evaluated pre-1996 programs achieved, including the most successful of those programs. Even so, the standard has mostly been met, though usually by means other than engaging recipients in activities. That is, states might be “hitting the target, but missing the point.”<sup>14</sup>

The question now isn't whether TANF is “broken” – it is clear that it is – but how to fix it. Unfortunately, most reform efforts treat the symptoms, but don't address the underlying structural problems.

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***What about the Participation Rate for Receipt of Cash Assistance?*** While many conservative lawmakers have expressed concern about the low work participation rate (relative to the 50 percent target) and the use of “loopholes,” there has been virtually no concern about a second “participation rate” – the take-up rate of assistance among eligible families, as reflected in Table 1 above, which plummeted from 79 percent in 1996 to just 26 percent in 2015. This decline is due to a combination of factors, two of which are the unreasonableness of TANF's work requirements (expecting 130 hours of participation per month in exchange for \$200 to \$400 in benefits, i.e., expecting individuals to value their time at \$2 to \$3 an hour) and the fact that states can use savings from cash assistance to fill budget holes.

Notably, work requirements are irrelevant when virtually no one receives assistance!

### **Diverting TANF Dollars to Fill Budget Holes**

**Senator Daines:** “In addition, many States are using TANF dollars for purposes unrelated to work, and the program lacks the transparency and the accountability metrics that are critical to its success. Because of these shortfalls, too many low-income parents are not finding sustainable jobs, and too many children are at high risk of suffering the hardships of poverty.”

**PC Response:** This sentiment was echoed by Rep. Adrian Smith, stated: “We have found that states have used TANF dollars to plug budget gaps.” This is hardly a recent discovery.

***A Brief History of Using TANF to Fill Budget Holes.*** When TANF was created, states received a large windfall in federal resources, because the block grant was based on historic funding levels when caseloads had peaked. The U.S. General Accounting Office (GAO) estimated that if all states had received the full TANF block grant in 1997 (some didn't because they had until July 1, 1997, to implement TANF) they would have \$4.7 billion more than they would have spent in 1997 under AFDC: “On average, given the actual caseload in 1997, we estimated that states would have had about 25 percent more budgetary resources under TANF than they would have had under AFDC funding rules.”<sup>15</sup> As a result, many states built up large reserves because they did not spend all their block grant funds, saving a portion for the future.

On March 16, 1999, former Rep. Nancy Johnson, then chair of the House Ways and Means Subcommittee on Human Resources, wrote individually to all 50 governors warning that more TANF funds needed to be spent or states risked having Congress take back some of the unspent funds or would have future grants reduced. This prompted states to shift more of their TANF/MOE funds to activities other than traditional “welfare reform,” such as child welfare, preK, and college scholarships, to name only a few. Notably, these shifts do not necessarily represent new spending, but often the supplantation of existing state spending. In response, Rep. Johnson wrote another letter to all 50 governors in March 2000, stating:

I hope you will be careful to avoid supplanting TANF funds. By supplantation, I mean replacing state dollars with TANF dollars on activities that are legal uses of TANF funding. Supplantation, of course, is perfectly legal under the TANF statute. However, if the savings from supplanted federal funds are used for purposes other than those specified in the TANF legislation, Congress will react by assuming that we have provided states with too much money.<sup>16</sup>

The problem did get worse after 2000, as states have taken tens of billions of federal TANF dollars to supplant existing state spending, yet Congress has done nothing to stop it. (While supplantation is prohibited with MOE dollars, some states have found ways to circumvent this as well; see, for example: “TANF in Michigan: Did We Really “Fix” Welfare in 1996? A Cautionary Tale for Speaker Ryan,” available at: <https://petergermanis.com/wp-content/uploads/2021/02/TANF-is-Broken-in-Michigan.052716.pdf>.)

In FY 2016, states spent just 53 percent of their TANF/MOE funds on “core” welfare reform purposes — specifically, basic assistance, work-related activities, work supports/supportive services, and child care, with 11 states spending less than 30 percent on these core activities.<sup>17</sup> Moreover, the block grant has been reduced by over one-third due to inflation, so these percentages are applied against a shrinking base.

***Would the Jobs for Success Act Curtail the Diversion of TANF Dollars?*** The JOBS for Success Act would require states to spend 25 percent of the block grant and MOE expenditures on certain “core” activities (assistance, work activities, work supports, support services, case management, and non-recurring short-term benefits). This bar is so low, it would only affect a handful of states and it does nothing to reverse the erosion in the value of the block grant (which has lost over one-third of its value due to inflation despite the fact the number of poor families with children is higher in many states than in 1996). The bills also include a provision barring supplantation with federal funds; this presumably refers to any further supplantation – it is too late to undo most of the supplantation that has occurred to date.

**Senator Daines:** “Part of the problem is that TANF has been significantly reformed only once since President Clinton signed it into law. In 2006, Congress reauthorized and strengthened the program, thanks to the hard work of then-Finance Committee Chairman Chuck Grassley and his Republican counterparts in the House. Since its expiration in 2010, however, TANF has received a whopping – this is so DC – 24 short-term reauthorizations. Talk about kicking the can

down the road. Efforts to address the persisting concerns about the program have not crossed the finish line. This must change.”

**PC Response:** While JOBS for Success Act appears to involve substantive changes, it too is “kicking the can down the road.” Neither it, nor the previous “major” reauthorization proposal, the Deficit Reduction Act of 2005 (DRA), represent “serious” reform because they do not address TANF’s underlying structural problems. As the described above, the DRA attempted to close some of TANF’s work requirement loopholes by recalibrating the base year for the caseload reduction credit (from FY 1995 to FY 2005), adding families in separate state programs to the work rate calculation, and changing the group required to participate from families with a “TANF adult” to families with a “work-eligible individual” (adding certain non-recipient parents whose children receive assistance), states responded by shifting to new loopholes – solely state funded programs, generating “excess MOE” to inflate the caseload reduction credit, and making “token payments” to families with an individual working full-time but otherwise with no connection to the cash assistance caseload.

The most likely effect of this legislation is that it would lead states to place their caseload of families with a work-eligible individual (those subject to the universal engagement and performance outcomes requirements) into solely state funded programs and thus avoid these new and potentially administratively burdensome requirements, as well as eliminating the risk of incurring a penalty. Most states can achieve this result with no additional spending; simply rearranging funding streams. One reason is that many states spend so little on basic assistance, particularly on the subset of families with a work-eligible individual. For more detail and several examples, see:

“The JOBS for Success Act: A Noble but Futile Attempt to Reform ‘Welfare Reform,’” June 16, 2018, available at: <https://petergermanis.com/wp-content/uploads/2021/02/The-JOBS-for-Success-Act.pdf>.

What many reformers fail to realize is that TANF in most states has become a form of revenue sharing. To really reform TANF requires addressing the block grant structure and limiting the use of funds to core welfare reform purposes – basic assistance and work activities/supports.

**Senator Daines:** For starters, revitalizing TANF is important to sustaining our most robust economy. Right now, there are 7 million job openings that remain unfilled – 7 million job openings that are unfilled. The good news is that employers across our country are clearly looking to hire, jobs are being created, and the economy is strong. But as my good friend, House Ways and Means Committee Chairman Kevin Brady, has said: “We have gone from a country asking, ‘Where are the jobs?’ to one asking, ‘Where are the workers?’” A big part of the answer is that millions of able-bodied, working-age Americans are completely on the sidelines.”

**PC Response:** Rep. Brady’s state of Texas is perhaps the quintessential example of how TANF has gone wrong. In FY 2016, the state spent just 16 percent of its TANF/MOE funds on basic assistance, work activities, work supports, and child care.<sup>18</sup> Instead, it diverted most of its funding to pay for preK and child welfare – some of which represented pure supplantation. For more detail, see: “TANF in Texas: The Need for “A Much Better Way”: A Cautionary Tale for

Ways and Means Chairman Brady,” August 30, 2016, available at: <https://petergermanis.com/wp-content/uploads/2021/02/TANF-is-Broken-in-Texas.pdf>.

**Senator Daines:** “A strong, revitalized TANF Program is urgently needed to close this jobs gap and empower more Americans to find work. This is exactly what my bill, the JOBS Act, would do.”

**PC Response:** TANF as a program providing cash assistance has largely withered away. It now serves less than 1 percent of the population nationally – and considerably less in some states. There are about 600,000 work eligible individuals (excluding those receiving token payments) compared to about 200 million working-age adults. The “JOBS Act” would have no meaningful impact on the “jobs gap.”

**Senator Daines:** “Building on legislation that passed the Ways and Means Committee earlier this year in the House, the JOBS Act demands positive work outcomes rather than simply meeting ineffective participation rules.”

**PC Response:** While TANF’s work participation rate structure is seriously flawed, refocusing the program on “outcomes” is not the answer.

The JOBS for Success Act would require states to track the employment and earnings outcomes of TANF leavers and judge success by comparing the results to negotiated benchmarks. While this approach is similar to that used in the Workforce Innovation and Opportunity Act (WIOA), there are important differences that make this more problematic for TANF. WIOA’s performance is measured for those who actually participate in an employment and training activity and the results are adjusted using a statistical model accounting for economic and demographic factors. The WIOA approach builds on decades of experience. In contrast, the bills would focus on TANF leavers, regardless of whether they actually participate in a real activity.<sup>19</sup> Moreover, state TANF programs differ enormously and reasons for exit often are due to factors other than completing an employment and training activity (e.g., a time limit or a full family sanction), further complicating the establishment of meaningful performance targets. Perhaps most important, the data infrastructure does not exist to implement a WIOA-like approach and would have to be developed, including building a new bureaucracy with the skills needed to negotiate benchmarks with states – requiring far more time than allowed for in the legislation.

Another important difference between WIOA and TANF is the penalty for failing to achieve the performance standards. In WIOA, failure means a minor financial penalty and the receipt of technical assistance from the Departments of Labor and Education. In TANF, the current penalty structure remains in place and is much more substantial in dollar amounts – up to 5 percent of the block grant for the first failure, rising to up to 21 percent of the block grant for repeated failures. Notably, in some states, penalties of this magnitude would be more than the amount they spend on assistance for families with a work-eligible individual. The likely result, as with the current work rate, is more gaming of the system.<sup>20</sup>

The main problem with an “outcomes” approach is the lack of a real counterfactual, like a control group. One can never be sure if the “outcomes” achieved represent real improvements in performance. Notably, the waiver approach to welfare reform that existed before TANF relied on random assignment evaluation to assess performance.<sup>21</sup> The findings from random assignment experiments are considered the most credible, because the experimental and control groups are alike and subject to the same external conditions, with the only difference being the intervention itself. Thus, any difference in outcomes between the groups can be attributed to the intervention – welfare reform – itself. This approach provided credible evidence about the impacts of welfare reform, including many examples of state experiments that increased employment and earnings, and also reduced welfare dependency and poverty.<sup>22</sup> Under TANF, this responsible, evidence-based approach was replaced by giving state politicians a blank check with no real obligation to help needy families or assess performance. Adding information about “outcomes” without a real counterfactual is not a real solution.

**Senator Daines:** “It requires States to engage with every work-eligible individual and establish a plan that will result in a sustainable job.”

**PC Response:** There is no precedent for a universal engagement requirement and given TANF’s historically poor performance in engaging families (as described above), it is unrealistic to assume this requirement would be implemented seriously – even in states that still have a semblance of a cash assistance safety net. The most likely result is that states will take advantage of the one big loophole Congress seems unwilling to touch – the solely state funded program that is a direct result of the block grant structure.

**Senator Daines:** “It holds States accountable for their work outcomes, not activities – we are talking about outcomes, about results – and it bolsters the transparency of every State’s performance. It doesn’t just demand work; it enables work. It substantially increases funding for childcare services that would be essential to holding a job. It provides struggling beneficiaries with additional time to get the mental health or substance abuse treatment they need before holding a job and making that a realistic goal. It adds apprenticeship as a permissible work activity, alongside job training, getting more education, and building job readiness skills. My bill targets funds to truly needy families by capping participation to families with incomes below 200 percent of the Federal poverty level.”

**PC Response:** The JOBS for Success Act is nothing more than rearranging the deck chairs on the *Titanic* and in some ways is a step backward. The legislation would leave one major loophole states will exploit – the solely state funded program. This would require addressing the block grant structure. It would also force states to adopt an untested and administratively bureaucratic “outcomes” approach if they decide not to game it (along with the universal engagement requirement).

A partial list of what a real reform package would look like would include the following elements:

- Replace the block grant structure with a federal-state match (capped, if need be for budgetary or political reasons) and limit state spending to core welfare reform activities.

(This would largely eliminate the solely state funded loophole and the use of TANF as a form of revenue sharing.)

- Target funds to families with incomes below 100 percent of poverty (vs. the 200 percent in the JOBS for Success Act), as this is the group that has been most affected by the decimation of the cash assistance safety net.
- Reduce or eliminate the vast funding disparities across states, where a state like New York receives nine times as much federal aid per poor child as Texas.
- Renew the focus on random assignment experiments (as in the preTANF, AFDC waiver era), as a way to hold states accountable and build an evidence base.
- Develop work participation requirements that are reasonable for recipients, realistic for states, and based on evidence – i.e., start over. Any new approach should also include the funding needed to pay for work activities and work supports; it should include a requirement to evaluate policies like full family sanctions that have the potential to endanger the well-being of children.

TANF gave states a blank check with no meaningful accountability. While the JOBS for Success Act *attempts* to address some of its most obvious problems it falls woefully short. Given that it has taken Congress 10 or more years to even attempt meaningful reform, it is important that this effort actually fix the problems and do more than just treating the symptoms.

**Senator Daines:** “The JOBS Act is built on the recognition that there is dignity in work. A job can start low-income parents down the path toward achieving lifelong dreams. A job can create opportunities that are simply out of reach without one. A job can be the springboard to higher wages and upward mobility. A job can rescue young children from the challenges of poverty and despair. In short, finding sustainable work can create better lives for low-income parents and children alike.”

**PC Response:** The “dignity of work” is an over-used catchphrase by conservative politicians and ideologues that promote work requirements regardless of whether the policy details are reasonable, realistic, or based on evidence. A job may do all the things Senator Daines claims; the real issue is whether public policy can be structured to actually help individuals find jobs. On this count, the record to date is one of modest impacts for well-designed programs that are rigorously evaluated. TANF itself is a cautionary tale, having emphasized “hassle” over “help” and has undoubtedly pushed millions of families deeper into poverty.

**Senator Daines:** The JOBS Act equips and empowers low-income families toward a better future. I urge my colleagues to reclaim the bipartisanship that created historic reforms a generation ago and support this important legislation to make our largest welfare-to-work program actually work again.

**PC Response:** The JOBS for Success Act would not do any of these things. TANF cannot be fixed; it must be repealed and replaced.

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<sup>1</sup> The views in this document reflect my own as a citizen and do not reflect the views of any organization I am now or have ever been affiliated with. By way of background, I am a conservative and have worked on welfare issues for the Heritage Foundation, the American Enterprise Institute, and the White House under both President Reagan and President George H.W. Bush. This paper assumes the reader has a basic understanding of the TANF program, but for those readers who want more context and background, see Peter Germanis, *TANF is Broken! It's Time to Reform "Welfare Reform" (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015 draft, available at: <https://petergermanis.com/wp-content/uploads/2020/09/TANF-is-Broken.072515.pdf>.

<sup>2</sup> The House version of the bill, H.R. 5861, can be found at: <https://www.congress.gov/bill/115th-congress/house-bill/5861/text?q=%7B%22search%22%3A%5B%22jobs+for+success%22%5D%7D&r=1&s=1>; the Senate version, S. 3692, can be found at: <https://www.congress.gov/bill/115th-congress/senate-bill/3692/text?q=%7B%22search%22%3A%5B%22jobs+for+success%22%5D%7D&r=2&s=1>.

<sup>3</sup> Senator Steve Daines, "TANF," *Congressional Record*, December 6, 2018, p. S7339, available at: <https://www.congress.gov/115/crec/2018/12/06/CREC-2018-12-06-senate.pdf>.

<sup>4</sup> Council of Economic Advisers, *Expanding Work Requirements in Non-Cash Welfare Programs*, (Washington, D.C.: The White House, July 2018), p. 47, available at: <https://www.whitehouse.gov/wp-content/uploads/2018/07/Expanding-Work-Requirements-in-Non-Cash-Welfare-Programs.pdf>.

<sup>5</sup> Robert Rector and Vijay Menon, "Understanding the Hidden \$1.1 Trillion Welfare System and How to Reform It," April 5, 2018, available at: <https://www.heritage.org/welfare/report/understanding-the-hidden-11-trillion-welfare-system-and-how-reform-it>.

<sup>6</sup> Hilary Hoynes and Diane Whitmore Schanzenbach, "Safety Net Investments in Children," The Brookings Institution, BPEA Conference Drafts, March 8–9, 2018, available at: [https://www.brookings.edu/wp-content/uploads/2018/03/2\\_hoynesschanz1.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/2_hoynesschanz1.pdf).

<sup>7</sup> Peter Germanis, *TANF is Broken! It's Time to Reform "Welfare Reform" (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015 draft, available at: <https://petergermanis.com/wp-content/uploads/2020/09/TANF-is-Broken.072515.pdf>.

<sup>8</sup> Douglas J. Besharov and Peter Germanis, "Toughening TANF," American Enterprise Institute, April 21, 2004, available at: <https://www.aei.org/publication/toughening-tanf> and Douglas J. Besharov and Peter Germanis, "Toughening TANF: How Much? And How Attainable?," March 23, 2004, available at: [http://www.welfareacademy.org/pubs/welfare/toughening\\_tanf.pdf](http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf).

<sup>9</sup> Full-time unsubsidized employment as an exemption also makes it easier to meet TANF's work participation by reducing the denominator, but the effect is not as large; some states could meet TANF's work requirements simply by counting those in this activity without having to serve anyone in a real activity like job search and job readiness assistance, vocational educational training, or work experience.

<sup>10</sup> See work participation rate data at U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Family Assistance, Table 1B available at: <http://www.acf.hhs.gov/sites/default/files/ofa/wpr2005.pdf>.

<sup>11</sup> Center for Public Policy Priorities, "A New Welfare-to-Work Approach for Texas," February 2007, available at: [http://www.workingpoorfamilies.org/pdfs/TANF\\_reform\\_80th.pdf](http://www.workingpoorfamilies.org/pdfs/TANF_reform_80th.pdf).

<sup>12</sup> Gene Falk, "Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities," Congressional Research Service, February 1, 2017, p. 10, available at: [https://www.everycrsreport.com/files/20170201\\_R44751\\_b7093fe9349fcb8c25170eca4d9725d907ad535e.pdf](https://www.everycrsreport.com/files/20170201_R44751_b7093fe9349fcb8c25170eca4d9725d907ad535e.pdf).

<sup>13</sup> Some individuals with zero hours may be in activities that don't count or have hours the state chose not to report. See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *Claims Resolution Act - Engagement in Additional Work Activities and Expenditures for Other Benefits and Services, April-June 2011: Engagement in Additional Work Activities and Expenditures for Other Benefits and Services*, February 13, 2012, available at: <http://www.acf.hhs.gov/ofa/resource/cra-june2011.html>.

<sup>14</sup> Gene Falk, "Temporary Assistance for Needy Families," Congressional Research Service, March 27, 2018.

<sup>15</sup> U.S. General Accounting Office, *States are Restructuring Programs to Reduce Welfare Dependence*, June 1998, p. 78.

<sup>16</sup> For an example of the letter sent to each governor, see: <http://fiscalpolicy.org/letter-from-nancy-l-johnson-sent-individually-to-all-50-governors>.

<sup>17</sup> Liz Schott, Ife Floyd, and Ashley Burnside, "How States Use Funds Under the TANF Block Grant," Center on Budget and Policy Priorities, April 2, 2018, available at: <https://www.cbpp.org/research/family-income-support/how-states-use-funds-under-the-tanf-block-grant>.

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<sup>18</sup> Center on Budget and Policy Priorities, “Texas TANF Spending,” April 2, 2018, available at: [https://www.cbpp.org/sites/default/files/atoms/files/tanf\\_spending\\_tx.pdf](https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_tx.pdf).

<sup>19</sup> The bill does include a state option to more closely align the TANF requirement with WIOA, which could significantly narrow the scope of this provision, particularly if the universal engagement requirement does not actually engage many work-eligible individuals.

<sup>20</sup> For example, if a time limit causes a family with a work-eligible individual to leave without employment, this would negatively affect performance. So, a state might simply pay a token benefit to a “leaver” and thus keep them on the rolls. Once the family obtained employment, it could cut them off and get positive credit. Similarly, if a state wanted to inflate its employment or earnings measures, it could provide token payments to SNAP recipients working full-time and then time limit them to a few months of assistance – once the time limit expires, they would be counted as employed leavers. These are just some of the strategies states might employ to avoid penalties, though the fact that performance targets would be negotiated might mean they would be less effective than the current gaming of work rates.

<sup>21</sup> For an excellent summary of the issues and deliberations during this period, see Judith M. Gueron and Howard Rolston, *Fighting for Reliable Evidence* (New York, NY: Russell Sage Foundation, June 2013).

<sup>22</sup> Jeffrey Grogger, Lynn A. Karoly, and Jacob Alex Klerman, *Consequences of Welfare Reform: A Research Synthesis* (Santa Monica, CA: July 2002), [http://www.acf.hhs.gov/programs/opre/welfare\\_employ/res\\_synthesis/reports/consequences\\_of\\_wr/rand\\_report.pdf](http://www.acf.hhs.gov/programs/opre/welfare_employ/res_synthesis/reports/consequences_of_wr/rand_report.pdf).