

The Welfare Reform and Upward Mobility Act: A Conservative Plan to Eviscerate the Safety Net

Discussion Draft

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A Personal Note from “Peter the Citizen”

Arthur Brooks, president of the American Enterprise Institute, once said, “What is most important on the right is not to shut down the competition of ideas.” I welcome that spirit, and that is why I offer an alternative conservative perspective to the conventional wisdom that the 1996 welfare reform law, and the creation of the Temporary Assistance for Needy Families (TANF) block grant, was an “unprecedented success.” In fact, I argue that TANF is a massive policy failure and should not be held out as an example of “conservatism.” I favor an alternative conservative approach based on a model developed in the Reagan Administration, which provided states flexibility, but had strong accountability provisions – most notably cost neutrality and rigorous evaluation – to ensure that states actually help needy families. For the past year, I have been writing critiques of TANF and “responses” to those who advocate welfare reform based on the “TANF model.” The ancient Greek philosopher, Diogenes of Sinope, once said, “Other dogs bite only their enemies, whereas I bite also my friends in order to save them.” I am trying to save conservatives and to help them not only “talk the talk,” but also “walk the walk.”

NOTE: This paper is labeled a “discussion draft.” While I did my best to interpret the Act’s statutory language, in some places it is vague and it is possible that some provisions could be interpreted differently than I have described them. To the extent I could, I highlighted such provisions in the text or my endnotes. This paper is not intended a complete and final analysis of the “Welfare Reform and Upward Mobility Act,” as it is based on a very quick review, but it is intended to raise issues and hopefully stimulate a serious discussion about how work requirements should be implemented.

Welfare reform is likely to be high on the agenda when the new Congress returns in 2017. One of the bills Congress may examine is the “Welfare Reform and Upward Mobility Act,” introduced by Representative Jim Jordan (R–OH) in the House (H.R. 5360) and Senator Mike Lee (R–UT) in the Senate (S. 3047). The stated purposes of the Act are, “To help individuals receiving assistance under means-tested welfare programs obtain self-sufficiency, to provide information on total spending on means-tested welfare programs, to provide an overall spending limit on means-tested welfare programs, and for other purposes.” The key components of the Act include adding a second work requirement to the Temporary Assistance for Needy Families (TANF) “program”²; new work requirements under the Supplemental Nutrition Assistance Program (SNAP) for adults with dependent children³; and a sharp phase-down in funding for means-tested housing assistance. (The main focus of this critique is the new TANF work requirement and the SNAP work requirement for adults with dependent children.)

I am a conservative who believes in the value of work requirements, if implemented properly. Today, conservatives point to TANF’s work requirements as the key to the putative success of the 1996 welfare reform law. In reality, TANF’s work requirements are an example of

misguided conservative policymaking – they are unreasonable, dysfunctional, and are not about work. Their main function has been to impose barriers and cut caseloads through a process known as “bureaucratic disentanglement.” Even with sharply reduced caseloads, states have resorted to gimmicks to satisfy federal work rate targets that themselves are unreasonable. Such gimmickry does nothing to help the poor get connected to work opportunities. (For a detailed discussion on this topic, see “TANF Work Requirements: An Epic Fail” in *TANF is Broken! It’s Time to Reform “Welfare Reform.”*⁴)

The “Welfare Reform and Upward Mobility Act” does not address the deficiencies of TANF’s work requirements, but instead creates a Rube-Goldberg-like set of bureaucratic rules for three overlapping, but uncoordinated, work requirements – two for TANF and one for SNAP. For a fuller discussion, see the section below describing some of the technical details – “Taking the Statute at Face Value: The Epitome of Dysfunctional Conservatism.” In a nutshell, the main problems are as follows:

- The Act creates an impossible administrative burden on states – each work requirement has its own target population, rules on what activities count and the minimum hours of participation needed for an individual to count, work rate targets and how they are measured, sanction policies for individuals, and penalties for states.
- For states, the required work rates are unrealistic and unachievable.
- For states, the penalties for failing to satisfy the new work rate requirements are unprecedented in their harshness; indeed for the new TANF requirement, the penalty itself could greatly exceed the amount a state spends on assistance.
- For individuals, the Act extends work requirements to parents needed in the home to care for a disabled family member and non-citizen parents ineligible for assistance; for TANF, the second work requirement would go so far as to require disabled parents and parents with an infant to participate.
- For individuals, the mandated sanctions for non-compliance are unprecedented in their harshness, and can include the entire TANF/SNAP grant, leaving no safety net. While I believe there is a role for sanctions in welfare programs, sanction policies like other welfare policies should be subject to rigorous evaluation in selected sites before being implemented on a national scale; this Act’s provisions are not based on any evidence regarding their effectiveness and threaten to throw millions of poor families even deeper into poverty. And, states may have no choice but to penalize them or be subject to draconian penalties themselves.
- There is no recognition of the cost associated with implementing and running welfare-to-work programs. As described in the paper, the first year cost could easily be \$10 billion or more, yet the Act makes no provision for additional funding for such work programs.

The result will be predictable – more gimmickry and more poverty.

As I read the details of the Act, I wondered whether the authors were so naïve as to believe that the bill would actually be implemented as described and whether they thought it would actually help poor families. It then occurred to me that the Act is not about helping the poor or upward mobility. It is about sharply reducing the federal role in the safety net under the (again naïve) assumption that states would pick up the shortfall. As Robert Rector and Rachel Sheffield of The Heritage Foundation explain, “Restoring real federalism in welfare would mean that state governments would not only operate welfare programs, but also pay for those programs with state revenues.”⁵ The Act does this directly with means-tested housing, reducing federal funding by 50 percent over 10 years, with the first reductions starting in fiscal year (FY) 2023. With TANF and SNAP, the reduction is more indirect – by imposing unrealistic and unreasonable work requirements, states will either be subject to large penalties or they will be forced to push a large number of families with dependent children off the rolls.⁶ In the case of these programs, the cuts will be immediate.

Even if one believes that turning the responsibility for safety net programs to the states is a good idea, to think that the transition could be completed *smoothly* in a few years is taking a huge gamble with the lives of our most vulnerable families. This legislation would surely exacerbate poverty by imposing impossible and exceptionally harsh work requirements; if conservatives view this as the path forward, a more responsible approach would be to test it by implementing it in Ohio and Utah first (home states to Representative Jordan and Senator Lee), followed by national implementation two to three years later. If the early implementation experiences are as positive as some conservatives believe, the nation can move forward confidently. If, however, as is more likely, the administrative challenges and hardships imposed by the Act are revealed, we can avoid a *national* tragedy.

Taking the Statute at Face Value: The Epitome of Dysfunctional Conservatism

Most conservatives believe the 1996 welfare reform has been a success. In this regard, Speaker Ryan recently remarked:

In 1996, we created a work requirement for welfare. But that was just one program. We have to fix all the others now.⁷

The suggestion that the creation of the TANF block grant created a “work requirement” and “fixed” a welfare program is, by any objective analysis, wrong. While the 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. In many states, it has become a slush fund used to supplant state spending and fill budget holes.

As noted above, TANF’s work requirements are unreasonable, dysfunctional, and are not about work. I have written at great length about their dysfunction and will not repeat my criticisms here; for readers interested in more detail, see:

- “TANF Work Requirements: An Epic Fail,” in *TANF is Broken! It’s Time to Reform Welfare Reform*”⁸;
- “The Failure of TANF Work Requirements in Wisconsin: A Note for Speaker Ryan”⁹; and
- “The Failure of TANF Work Requirements: A *Much Needed* Tutorial for the Heritage Foundation and the American Enterprise Institute.”¹⁰

As poorly as TANF’s work requirements were written, the Jordan-Lee “Welfare Reform and Upward Mobility Act” sets new standards for dysfunctional conservatism. The byzantine structure of the new work requirements is so complex, states will be unable to administer it; the work requirements for states and individuals are unachievable and will result in unprecedented penalties for both.

In addition to TANF’s current work requirement, the Act adds two new requirements, each with its own set of rules regarding who is to be counted, which activities count, the number of hours needed to count, sanctions for individual non-compliance, work rate targets, and penalties for states that fail to meet the targets. For TANF, the new work requirement is called the “Work Preparation Program”; for SNAP, it is called the “Work Activation Program.”

NOTE: What follows is a somewhat detailed examination of the Act’s two new work requirements. It assumes that the reader is familiar with TANF’s work requirements and their shortcomings. In addition, the focus is on policy details – details that are important to the implementation and effectiveness of work requirements.

The Denominator. The families or individuals that are required to participate in a work activity make up the “denominator” of the calculation. TANF’s work rate is based on families with a “work-eligible individual”; this term is described in federal regulations at 45 CFR 261.2(n). In addition, families can be “disregarded” in the calculation under several circumstances. The Act creates two new work rate requirements based on what it terms “eligible participants”; however, as described below, the definition of an “eligible participant” is different between TANF and SNAP, as well as compared to TANF’s “work-eligible individual.”¹¹ Table 1 compares the denominators of the three rates.

As is obvious from the table, the Act makes administering work requirements needlessly complicated, creating three different categories of participants that make up the required participant pool (i.e., denominators). The solution should be to fix TANF’s work requirement and apply a single set of rules to any TANF and/or SNAP requirement.

Table 1: Comparing Denominators			
Included vs. Excluded Adults/Parents	TANF Work-Eligible Individual	Welfare Reform and Upward Mobility Act: TANF “Eligible Participant”	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Minor parent who is not the head of household	Excluded	Included	Excluded (under age 19)
Parent 55 or older	Included	Included	Excluded
Non-citizen ineligible for assistance due to immigration status	Excluded	Included, if a parent	Included, if a parent
Disabled parent	Included, unless receiving SSI/SSDI	Included	Unclear (“disabled” is not defined)
Recipient of SSI/SSDI	Excluded, at state option	Included, if a parent	Excluded
SSI/SSDI applicant	Included, but excluded from the rate retroactively if approved	Included, if a parent	Unclear
Parent caring for a disabled family member	Excluded	Included	Included
Second parent in a two-parent family	Excluded (for the overall rate)	Included, unless parents are married	Included, but if married has lower hourly requirement
Single parent with a child under 12 months of age	Disregarded, at state option, for a maximum of 12 months lifetime per family	Included	Exempt, at state option
Two-parent family with a child under 12 months of age	Included	Included	Exempt, at state option
Sanctioned individual	Disregarded, for 3 months in the preceding 12-month period	Disregarded for the duration of the sanction	Included, but also counted in the numerator
Adult, non-parental relative caretaker receiving assistance	Included	Excluded	Excluded
Employed	Included	Excluded, if employed 40 hours or more in the month	Excluded, if employed 100 or more hours in the month; for two-parent families, if married, excluded if 100 or more combined work hours
Received assistance for <3 months in “the year”	Included	Included	Excluded

In addition, the Act extends work requirements to some groups currently excluded from TANF’s work requirement and that may have a hard time complying. For example, TANF’s new requirement would include groups such as disabled parents, parents caring for a disabled family member, and mothers with infants – groups most Americans would probably support excluding from work requirements. The new SNAP requirement is somewhat less harsh in that it continues to exclude disabled and elderly parents, and well as parents with an infant, but it too includes parents caring for a disabled family member. Both would include non-citizen parents ineligible for assistance due to immigration status.

A notable exemption from the SNAP work requirement is that a household must have received SNAP benefits “for more than 3 months in the year.” The term “in the year” is not defined – it could be referring to a “fiscal” or “calendar” year or a “preceding 12-month period.” (The distinction here can have a substantial impact on the participation rate.) This provision softens the work requirement and its penalties, but creates more administrative burden. For example, it means that a state can remove at least 25 percent of “eligible participants” from the work rate calculation each month, because each household can be excluded for one-quarter of the year.¹² (The actual figure is likely to be higher, because many families on the rolls are on for a short time, e.g., a family that receives SNAP just three months would be exempt altogether – of course, if they had enough hours to count, the state would include them in the calculation.) A simpler approach would simply be to include everyone, but lower the target rates, e.g., instead of 80 percent, reduce it to 50 percent (though even this is likely to be unachievable by many states, at least based on the TANF experience).

The Numerator – Minimum Hourly Requirements. To count in the numerator of TANF’s “overall” work rate, a work-eligible individual must engage in one or more of 12 specified work activities for a minimum average of 30 hours per week in a month, of which at least an average of 20 hours per week must be in one or more of the nine “core” activities (see Table 3). The three other “non-core” activities may count for any remaining hours beyond the “core hours” requirement. The requirement for a single-parent with a child under six is an average of 20 hours per week in a month and only in the nine core activities. TANF’s separate “two-parent” work rate requires more hours – at least an average of 35 hours per week (30 of which must be in a core activity) or 55 hours per week (50 of which must be in a core activity) if it receives federally subsidized child care. A teen parent (under age 20) who is a work eligible individual may be “deemed” to count toward the work participation rate without regard to the hours and activities requirements if he or she maintains satisfactory attendance in secondary school (or the equivalent) or participates in education directly related to employment for an average of at least 20 hours per week in the month. Last, a work-eligible individual can be deemed to meet the core hours requirement if he or she participates in work experience or community services and the sum of the TANF and SNAP grant divided by the minimum wage is less than the core hours requirement.

In order to count toward the new TANF work rate, an “eligible participant” must participate for at least an average of 30 hours per week during the month in one of 11 “work preparation activities.” The new TANF work requirement differs from the existing TANF requirement in terms of the required hours of participation (see Table 2), the most significant being that it raises the minimum hourly participation for single parents with a child under 6 from an average of 20 hours per week to an average of 30 hours per week (although it does permit an expanded range of activities to can count by eliminating the distinction between core hours and non-core hours). There is no separate two-parent rate under this new requirement, but both parents are subject to the requirement if they are not married. If they are married, the hourly standards are equal to those of a single “eligible participant.”

The new SNAP requirement has yet another set of rules. In fact, it creates two program options. The “Interim Work Activation” program is a short-term program, limited to one-time of participation for up to 3 months in a 3-year period; it requires at least 6 hours per week in

supervised job search; states can require additional hours in other activities if they so choose. The “Full Work Activation” program requires at least 100 hours per month per eligible participant in 14 activities; of which at least 20 hours per week in 11 core activities. (Note: while TANF’s two requirements are based on average weekly hours per month, some of the SNAP requirements require states to attain minimum levels of participation *each* week; this would make it harder for individuals to be counted in weeks where holidays, illness, family emergencies, or natural disasters disrupt normal participation patterns. When an average hourly requirement per month is used, falling short some weeks can be offset by participating more in other weeks.)

Table 2 compares the minimum hourly requirements of the three work requirements.

Table 2: Comparing Minimum Hours Needed to Count in the Numerator			
	TANF	Welfare Reform and Upward Mobility Act: TANF “Eligible Participant”	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Minimum hours of participation required (average weekly per month) to count in the work rate	<p><u>Overall work rate</u> Single-parent child under 6: - avg. of at least 20 hours per week in 9 core activities All other families: - avg. of at least 30 hours per week; at least 20 hours in 9 core activities</p> <p><u>Two-parent work rate</u> - avg. of at least 35 hours per week; at least 30 hours in 9 core activities - avg. of at least 55 hours if receive federally subsidized child care; at least 50 hours in 9 core activities</p>	<p>- avg. of at least 30 hours per week in 11 activities</p> <p><u>Two-parent/not married</u> - avg. of at least 30 hours for <i>each</i> parent)</p> <p><u>Two-parent/not married</u> - avg. of at least 30 hours for <i>both</i> parents)</p>	<p><u>Interim Work Activation (limited to one-time participation for up to 3 months in a 3-year period)</u> - At least 6 hours per week in supervised job search - Additional hours at state option</p> <p><u>Full Work Activation</u> - At least 100 hours per month per eligible participant in 14 activities; at least 20 hours per week in 11 core activities - Parent of a child under 6: avg. of at least 20 hours per week in 11 activities - For <i>married</i> parents, combined hours satisfy requirement</p>
Distinction between core and non-core hours?	Yes	No	Yes
Deeming for teen parents: secondary or GED-related school attendance or education directly related to employment can count as full participation for parents under age 20	Yes	No	Yes, for 19-year-old teen head of household or married teen
Deeming for work experience and community service	Yes, for core hours only, based on the value of TANF+SNAP divided by the minimum wage	No	No

As with the denominator, the Act's rules regarding minimum hours are needlessly complex; the solution should be to fix TANF's work requirement, not add new requirements with different rules on the minimum hours required, both overall and by type of activity. Under the Act, an individual subject to both TANF work requirements may have enough hours to count toward the current requirement, but not the new work requirement and vice versa. The problem is compounded when the SNAP requirement is factored in. These inconsistencies would force a state to require the most stringent hourly requirement.

Second, and as with TANF's current work requirement, the minimum hourly requirements are unreasonable in comparison to what families receive, expecting some "eligible participants" to value their time for as little as \$1 an hour under the TANF requirements. For example, in Tennessee, the maximum TANF grant for a family of two is \$140; the Act's new TANF work requirement would require "eligible participants" in these families to effectively value their time at \$1.08 an hour. In California, where the grant is as high as \$636 a month for a family of two, this is just \$4.89.¹³ While this may help impart some work skills if individuals choose to participate, it is more likely to drive families off the rolls. Indeed, this is a large part of the TANF story.

Given TANF's collapse as a cash assistance safety net, the vast majority of participants under these requirements are likely to be SNAP-only cases. For these families, the SNAP benefit for a family of two is \$357 a month; for a family of three it's \$511. Even for SNAP alone, this is just \$3 to \$4 an hour. Even the combined TANF/SNAP benefit would be less than the minimum wage in most states, except for the largest families. (These hourly requirements might be a bit more justified if states ran programs that really developed the skills and human capital of participants, but given the cost of running such programs and the demands of the new participation rates, that is not likely.)

The Numerator – Countable Activities. There are also differences in the countable activities between TANF's current work requirement and the Act's new TANF and SNAP work requirements, as illustrated in Table 3.

As with the definition of who is required to participate (the denominator) and the number of hours that can count (to be in the numerator), the Act adds needless complexity by having different rules related to countable activities. For example:

- A "work-eligible individual" in vocational education training for more than 12 months does not count for TANF's current work rate, but an "eligible participant" would count under the Act's second TANF work rate (because there is virtually no distinction between vocational educational training and job skills training). Such participation would be considered a non-core activity for the SNAP work requirement.
- A "work-eligible individual" in a "job search and job readiness assistance" activity that exceeds TANF's current 6- or 12-week limit (in the preceding 12 months) would not count in TANF's current work rate, but could count indefinitely, if an "eligible participant," under the Act's second TANF work rate; however, if the activity is job search, it must meet specific requirements for supervision. Under the SNAP requirement,

its treatment would vary based on whether the individual is in “interim” or “full” work activation.

- Participation in basic education by a single parent with a child under 6 does not count under TANF’s current work rate, but would count under the Act’s new TANF requirement. Such participation would be considered a non-core activity for the SNAP work requirement.

These are just some of the differences; this Act will be an administrative nightmare. There is no rational reason for such variation.

Table 3: Comparing Work Activities that Count			
Activity	TANF	Welfare Reform and Upward Mobility Act: TANF “Eligible Participant”	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Unsubsidized employment	Counts	Does not count	Counts for those employed < 100 hrs/mo
Subsidized public or private sector employment	Counts	Does not Count – but essentially the same as on-the-job training	Counts
On-the-job training	Counts	Counts	Counts
Job search and job readiness assistance	Counts – limited to a maximum of 6- to 12-weeks in preceding 12 months	Divided into separate activities	Divided into separate activities
Job search	-	Supervised job search only; no time limit	Supervised job search only; no time limit
Job readiness assistance	-	Counts; no time limit	Counts; no time limit
Community Service	Counts	Counts	Counts
Workfare	Counts	Counts	Counts
Vocational educational training	Counts – 12 months lifetime per individual	Counts – 12-month lifetime limit irrelevant; since no core/non-core distinction; can count job skills training (same definition)	Counts – 12 months lifetime per individual
Job-skills training	Counts, but as non-core (not for single parent with child <6)	Counts, no limits	Counts, but as non-core
Education directly related to employment, including basic education, GED preparation, and ESL	Counts, but as non-core (not for single parent with child <6)	Counts, no limits	Counts, but as non-core
Satisfactory school attendance	Counts, but as non-core, except for teen parent in school	Counts, no limits	Counts, but as non-core
Providing child care to community service part.	Counts	Counts	Counts
Workfare under sec. 20	NA	NA	Counts

Penalties Against “Non-Performing Individuals.” Under the Act, individuals who do not comply under both the new TANF and the SNAP work requirements are subject to a “pro rata” sanction or, at state option, a greater sanction, including termination of assistance. While the

current TANF work requirement also uses the term “pro rata” to describe the sanction for noncompliance, the term is not defined and states are left to determine the amount, duration, and conditions under which the sanction can be cured. The Act applies a different standard, where “pro rata” is based on the monthly amount of assistance that would be paid in the absence of a sanction time times the ratio of the number of hours performed to the number of hours required. Unlike current TANF, which allows states to establish sanctions of varying lengths, it appears that under the two new work requirements, compliance is determined on a monthly basis. Table 4 shows the main factors associated with sanction policies.

Table 4: Comparing Sanctions			
	TANF	Welfare Reform and Upward Mobility Act: TANF “Eligible Participant”	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Sanction amount	State option	Pro rata defined as proportional based on degree of non-compliance OR more at state option including full-family sanction	Pro rata defined as proportional based on degree of non-compliance OR more at state option including full-family sanction
Sanction duration	State option	Until compliance	Until compliance
Good cause	State option	No provision	No provision
Good cause exception	Child care unavailable for single parent with child <6	Child care unavailable for single parent with child <6	Child care unavailable for single parent with child <6
Criteria for curing a sanction	State option	Compliance	Compliance

The most troubling issue with the new sanction policies is their harshness. While some states have had full family sanctions for TANF, these have generally been states with relatively low TANF grants, and the families have been able to retain SNAP benefits as a last lifeline. The Act would remove this lifeline for those families that can’t participate. As noted above, TANF’s current work requirement excludes the disabled if they qualify for SSI or SSDI, and may retroactively remove them from the denominator if they are approved. In terms of this provision, however, applicants for disability benefits, even if ultimately eligible, may not be spared from individual sanctions.

Minimum Work Rates. The current TANF work rate targets are 50 percent for the “overall rate” and 90 percent for the “two-parent” rate. These targets can be reduced by the caseload reduction credit, which 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 FY 1995; later changed to FY 2005), not counting reductions due to federal or state eligibility changes since the base year. In addition, a regulatory provision allows states to reduce their comparison year caseload by spending in excess of their MOE requirement. This provision has led many states to simply find more third-party spending to count as MOE, including third-party nongovernmental expenditures, just so that they could artificially inflate the caseload reduction credit and thus reduce their target rates.

Without the caseload reduction credit, most states would not have been able to meet TANF's work rates without relying on other loopholes conservatives created in drafting the 1996 law. (For a history of these loopholes and how they work, see "TANF Work Requirements: An Epic Fail" in *TANF is Broken! It's Time to Reform "Welfare Reform"* and "The Failure of TANF Work Requirements: A *Much Needed* Tutorial for the Heritage Foundation and the American Enterprise Institute.") For purposes of this analysis, I will describe the two most relevant loopholes for TANF's current work requirements:

- Token benefits (e.g., \$10) to parents that work full-time and receive SNAP benefits or have enough hours to meet TANF's work rates, but otherwise have no connection to the cash assistance caseload. This loophole arises because the 1996 law made full-time employment an activity.
- Solely state funded programs. The TANF law made it very easy for states to meet their basic maintenance-of-effort (MOE) requirement without spending more money and many states report an "excess" amount of MOE. Indeed, states were only required to spend 75 or 80 percent of their previous spending (depending on whether they met their work rates), resulting in an immediate state savings. Any "excess" can be used to increase the caseload reduction credit (as described above) or simply fund some cases outside the TANF/MOE structure and thus not subject to any federally imposed requirements. Of course, the "excess MOE" then becomes a non-MOE expenditure in a solely state funded program. This loophole arises because of the block grant funding approach.

I describe the use of loopholes to meet TANF's work requirement because they are so central to how states now meet these requirements. In FY 2015, some states artificially inflated their work rates by paying token benefits to low-income families that otherwise would not be on welfare to artificially boost their work rates. This accounted for over 15 percent of the national caseload – at least 250,000 families, all of whom were already working and who otherwise had no connection TANF cash assistance.¹⁴ In addition, over 100,000 families were shifted to "solely state funded" programs because they did not have enough hours to count in the work rate; this is possible because TANF is a flexible and fungible funding stream.¹⁵ By way of comparison, relatively few participated in the types of work activities mandated by the Act – in FY 2014 (the latest year for work participation data) less than 100,000 participated in activities like vocational educational training, work experience, and community service for enough hours to count.¹⁶ Those participating in a "real" activity represent just 1-2 percent of the nation's poor families with children.

The Act's new TANF and SNAP work requirements have higher rates and eliminate *some* of the loopholes available under TANF's current work rate. Table 5 compares the various work rate requirements and the availability of certain loopholes.

	TANF	Welfare Reform and Upward Mobility Act: Eligible Participant	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Overall work rate	50%	2017: 25% 2018: 50% 2019 and after: 75%	2017: 20% 2018: 35% 2019: 50% 2020: 65% 2021: 80%
Two-parent work rate	90% The Act eliminates the two-parent work requirement	None; however, two-parent unmarried parents both are subject to the overall rate if “eligible participants”	None; however, two-parent unmarried parents both are subject to the overall rate if “eligible participants”
Time frame	Average monthly for a fiscal year	Average monthly by quarter	Average monthly by quarter
Caseload reduction credit	Yes	No	No
Gimmick #1: Token payments to full-time workers	Yes	No	No
Gimmick #2: Solely state funded program	Yes	Yes	No
Gimmick #3: Excess MOE for the caseload reduction credit	Yes	No	No
Other gimmicks?	Yes, intentionally not described	Yes, intentionally not described	Yes, intentionally not described
Special Rule – 30% cap on vocational education/teen parent education	Yes	No	Yes, but for vocational educational training only
Special Rule – required activities	None	At least 20% of eligible participants shall be required to participate in community service or workfare	At least 10% of eligible participants” must be in work experience, community service, or workfare under sec. 20

TANF’s new work requirement raises the stakes by phasing in a much higher rate – to 75 percent for those subject to the requirement. Moreover, there is no caseload reduction credit to reduce it and because it is limited to non-employment activities, the rate cannot be gamed by paying token benefits to full-time workers as they are not part of the denominator. However, states can place many of these families in a solely state funded program, where they are not subject to federal work requirements. (It is not as easy as it once was, however, because the Act’s second work requirement extends work requirements to previously excluded groups, such as the disabled, those caring for the disabled, and non-citizen parents not eligible for TANF cash assistance.) This gimmickry, of course, does nothing to help needy families. And, if states shift families to solely state funded programs, the share of TANF/MOE spending on assistance will decline further, making it appear to be an even larger slush fund than it already is. At that point,

Congress may slash its funding promoting what is likely to be the real objective of the Act – minimizing the federal role in providing a safety net.

Even more troubling is the new SNAP work requirement for adults with dependent children. The Act would phase-in work rate targets for SNAP adults with children that rise from 20 percent in FY 2017 to 80 percent in FY 2021. Virtually no state came anywhere near achieving this level under TANF, even in its early years when states received a massive windfall in federal funding because Congress overpaid states in the early years of the block grant. Most states relied on the caseload reduction credit and various other loopholes created by conservatives to avoid placing individuals in real activities. Indeed, even in TANF’s heyday, state participation rates were so low that Douglas Besharov and I recommended “a real and enforceable requirement that at least 10 percent of the adult caseload be in a work experience or education and training activity”¹⁷ SNAP should have a work requirement, but it should be designed to actually help poor families (basing key parameters on empirical evidence) and something states can actually achieve. The pace of increase should be based on observing implementation and conducting research on an on-going basis about various program models.

The new SNAP work requirement cannot be gamed as easily as TANF’s work requirements. For example, states would not be able to game it by paying token benefits to full-time workers, because the Act’s new SNAP work requirement is limited to those employed less than 100 hours per month and most are already receiving SNAP anyway. States don’t pay a share of benefit costs, so solely state funded programs are not an option, but there are several loopholes/gimmicks that can be used to manipulate all three work requirements. Under “Other Gimmicks,” Table 5 says “Intentionally not described.” These gimmicks would result in gutting the new work requirements; I do not mention them because I consider them bad public policy – they would do little to advance the long-term interests of the poor and may even increase federal costs. Welfare reform should move us in a different direction.

If this Act is implemented, with its harsh sanctions for individuals and penalties for “inadequate state performance,” then the use of more gimmicks would be the lesser of two evils. Conservatives would do well to remember the lessons of the Deficit Reduction Act of 2005; they tried to close loopholes by recalibrating the caseload reduction credit, eliminating the separate state program loophole, and requiring HHS to define work activities and the families subject to work requirements. This simply led to “excess MOE,” \$10 gimmick payments, and solely state funded programs. In the end, TANF’s work requirements have provided little help; they are mainly an example of the ineptitude of conservatives in drafting legislation – unless the only goal is to cut welfare caseloads.

Penalties for Inadequate State Performance. Under current TANF, a state that does not meet the work participation rate faces a penalty of up to 5 percent of the state’s block grant; the penalty amount increases by 2 percentage points each year for subsequent failures, up to a maximum of 21 percent of a state’s block grant. The penalty amounts may be reduced for the degree of noncompliance and/or extraordinary circumstance, such as regional recession. A penalty can be waived if the state can show or reasonable cause or if it successfully completes a corrective compliance plan.

The penalty provisions under the Act's new TANF work requirement are considerably harsher. Whereas under TANF's current work rate, the maximum penalty is 5 percent of a state's block grant, under the new penalty structure, a state could theoretically lose its entire block grant. The calculation is done on a quarterly basis and applied to any state that fails to meet new work requirement. Oversimplifying, a state that is penalized receives a reduced grant, one equal to what the state would have received without a penalty multiplied by the ratio of countable participants to eligible participants (i.e., the participation rate). For example, in FY 2018, the target participation rate is 50 percent. If the state achieves a work rate of 49 percent, the penalty is effectively a reduction in the grant payable of 51 percent. If it achieves a 0 percent participation rate, it does not receive a grant at all. Note that the size of the penalty is not related to the degree of shortfall from the target work rate, but rather from an effective 100 percent rate.

To illustrate the severity of the penalty, I will illustrate what might happen in Ways and Means Chairman Kevin Brady's state of Texas, as this legislation would have to go through his Committee. I will simplify using annual numbers (although the penalty is applied quarterly). The state's block grant is \$486 million; however, Texas uses TANF as a form of revenue sharing, rather than as a welfare program. So, while its total TANF/MOE spending in FY 2015 was \$998 million, it only spent \$58 million (5.8 percent) on basic assistance. And, only a subset of this amount would be attributable to those subject to this new work requirement. Assuming these figures remain constant through FY 2018 when the new work requirement takes effect and suppose the state achieves a work rate of 49 percent. It fails and is thus subject to a penalty of 51 percent of its block grant, or about \$248 million. This penalty is about four times what the state actually spent on basic assistance and there are no provisions for discretionary reduction, extraordinary circumstances, reasonable cause, or corrective compliance. The potential loss in federal funds is so large and so unreasonable that most states will take preemptive action to avoid them, most easily by shifting these families to a solely state funded program, but some by aggressively pushing them off the rolls. This won't save federal funding in the short-term, but it will make TANF look like an even bigger slush fund, which will give Congress justification for cutting it.

The SNAP requirement's penalty structure is based on a different formulation. Instead of basing the penalty on the entire SNAP grant that might otherwise be payable, it is limited to the amount the state would have received for "eligible participants" (i.e., limited to the subgroup that is actually subject to the work requirements). As with TANF, the reduced SNAP grant is based on the amount the state would have received without a penalty multiplied by the ratio of countable participants to eligible participants (i.e., the participation rate). For example, in FY 2018, the target SNAP participation rate is 35 percent. (Note: While this rate is lower than the 50 percent target for TANF's second work rate of 50 percent, the SNAP rate is applied against a much larger number of "eligible participants.") If the state achieves a work rate of 34 percent, the penalty is effectively a reduction in the grant payable of 66 percent. If it achieves a 0 percent participation rate, it does not receive a grant at all. Note that the size of the penalty is not related to the degree of shortfall from the target work rate, but rather from an effective 100 percent rate.

Under the SNAP requirement, the most that a state can lose in federal funding is the amount that is spent on behalf of "eligible participants." Spending on other groups would remain unaffected.

It is unclear what happens to the shortfall. SNAP eligibility's and benefits are based on uniform national rules and must be paid. Does this mean the states would have to make up the penalty with state funds? Could they use TANF or other funding sources? The legislation doesn't say. Some portion of the penalty would be recouped because "eligible participants" would be sanctioned, but their sanction is based on the shortfall in hours (pro rata or termination), while the penalty for the state is based on much harsher formulation and is disproportionate to the degree of non-compliance. There is also no mention of a discretionary reduction in the penalty, or taking into account extraordinary circumstances, or waiving the penalty for reasonable cause or corrective compliance.

Table 6 compares the main penalty provisions that would affect states.

Table 6: Comparing Penalties for "Inadequate State Performance"			
	TANF	Welfare Reform and Upward Mobility Act: TANF "Eligible Participant"	Welfare Reform and Upward Mobility Act: SNAP Able-Bodied Adults with Children
Penalties	Up to 5% of the block grant; penalty increased by 2 percentage points each year for subsequent failures, up to a maximum of 21% of the block grant	TANF funding reduced 180 days after the 1 st day of the quarter in which inadequate performance occurred; the penalty equals the quarterly block grant amount the state would otherwise have received multiplied by the ratio of countable participants to eligible participants.	SNAP funding reduced 180 days after the 1 st day of the quarter in which inadequate performance occurred; the penalty equals the amount the state would receive for all households with "eligible participants" multiplied by the ratio of countable participants to eligible participants.
Discretionary reduction for degree of noncompliance	Yes	No provision	No provision
Penalty may be reduced due to being a "needy state" or "extraordinary circumstances"	Yes	No provision	No provision
Reasonable cause	Yes	No provision	No provision
Corrective compliance	Yes	No provision	No provision

Scale and Cost Considerations

The "Welfare Reform and Upward Mobility Act" is drafted with no appreciation for the potential scale and cost of the effort. It is unrealistic and unachievable and will undoubtedly result in large penalties on states and/or large sanctions on individual families.

Scale. The Act calls for unprecedented and unrealistic increases in participation. To show the increase that is required, this section focuses on the SNAP work requirement for adults with dependent children, as many states have virtually eliminated cash assistance under TANF and because the new TANF work requirement can easily be gamed by loopholes created by conservatives themselves. In FY 2014, there were about 1 million individuals who were parents who received TANF cash assistance and/or whose children received such assistance and who would likely be subject to SNAP's work requirement and thus go into the denominator of the work rate calculation (see the endnote for how this estimate was derived).¹⁸ Since TANF has the only real work requirement for families with children, this forms the starting point to assess how much more will be expected of them.

To estimate the SNAP denominator that would apply under the Act's new requirement, I use data on the characteristics of SNAP households.¹⁹ In FY 2014, there were about 3.3 million SNAP households with children headed by a single adult with no earnings. In addition, there were about 500,000 *married* couple households with children that had no earned income, where one of the parents might be required to participate. Last, there were 900,000 remaining households (multiple adult, no adult) with no earnings, where most would have either one adult or two adults that would be required to participate. This totals 4.7 million households, from which one would have to subtract households in which the children resided with an adult other than the parent, the parent (but not child) is "disabled" or over the age of 55, but add parents who are employed less than 100 hours per month and the second parent in a household in which the parents are not married. About 1.1 million households with children have earnings under \$600 a month and one could assume would be added to the estimate of the number required to participate, although their required participation in other program activities would be less than the minimum of 100 hours by the number of hours they are employed. Also, states can exclude each household for up to 3 months in a year. This means they could reduce their required participant group by at least 25 percent a month.²⁰ A rough estimate is that the new SNAP work requirement would apply to 4 million households²¹ – about four times the number of households with children currently subject to such requirements.

In FY 2018, the first year of a binding participation rate, 35 percent of eligible participants would be required to participate. With an estimated 4 million households with dependent children subject to the SNAP work requirement, this means 1.4 million would have to participate in countable activities for at least 100 hours a month. Assuming TANF again forms the baseline, in FY 2014, there were about 100,000 individuals who participated in activities like work experience, community service, vocational educational training, and job search and job readiness assistance for enough hours to count in TANF's and thus would count toward, or come close to counting toward, SNAP's requirement.²² This is a 14-fold increase. (When fully phased in, the SNAP work rate would be 80 percent. With a 4 million caseload subject to the work requirement, this would lead to states having to place 3.2 million individuals – a 32-fold increase. This required rate is only reached in FY 2021 and the caseload will undoubtedly be lower, whether because individuals got jobs or because they were sanctioned or otherwise chose not to receive SNAP benefits.)

Supporters of this legislation point to the putative "successes" of Maine and Kansas in enforcing the ABAWD requirement. They point to data that show sharp declines in welfare caseloads;

they also suggest that the individuals who left are better off in terms of employment and income though the studies they cite have no real counterfactual.²³ However, it is not appropriate to extrapolate the results of the ABAWD experience to families *with children*. Compare the \$194 SNAP benefit received by a single ABAWD would receive to the \$511 a single mother of two would receive from SNAP. If she also receives TANF, her combined benefits would range from about \$700 to \$1,250 a month (due to the variation in TANF benefits across states). Adults with children have more to think about themselves, so they won't be "hassled" off as easily as ABAWDs might be. In addition, the cost of serving families with children is considerably higher because the minimum hours requirements are longer and there are added costs associated with child care that are not required to implement the ABAWD requirement. Moreover, the new SNAP work rate requires states to serve hard-to-serve populations not included in the ABAWD work requirement, most notably parents caring for a disabled family member. The ABAWD experience is largely irrelevant for the new SNAP work requirement for adults with dependent children.

For the sake of argument, if one accepts that both Maine and Kansas have successful ABAWD work requirements, it is instructive to see how these states have fared implementing TANF's work requirements for families with children.

- Between 1996 and 2014, the number of families with children in Kansas in deep poverty (i.e., with incomes below 50 percent of the poverty threshold) increased, from 14,400 to 26,100; nevertheless the number of families receiving cash assistance plummeted from 25,900 to 6,900.²⁴ If TANF's work requirements were such a success, one would have expected the caseload decline to be accompanied by a reduction in deep poverty – that hasn't happened. In terms of work activities, the state serves about 200 to 250 families a month in a real work activity like work experience, community service, vocational educational training, and job search and job readiness assistance.²⁵ The state has met its participation rate, not by providing a hand up, but by cutting its TANF caseload by shortening time limits and imposing other restrictions on receiving assistance.²⁶
- Between 1996 and 2014, the number of families with children in Maine in deep poverty (i.e., with incomes below 50 percent of the poverty threshold) increased, from 7,500 to 10,800; nevertheless the number of families receiving cash assistance plummeted from 13,500 to 6,500 (not including token payments to game the work rate, as described below).²⁷ If TANF's work requirements were such a success, one would have expected the caseload decline to be accompanied by a reduction in deep poverty – that hasn't happened. In terms of work activities, the state serves about 250 to 300 families a month in a real work activity like work experience, community service, vocational educational training, and job search and job readiness assistance.²⁸ The state has met its participation rate by cutting TANF caseloads and by gaming the work rates by paying token benefits (\$15 a month) to about 20,000 families that contain a child and work enough hours to count in the work rate. (These cases are funded in a separate state program with maintenance-of-effort dollars – I do not include them in the caseload statistics above, but they do count in calculating work participation rates.) This token payment is considered assistance and artificially inflates the work rate.

While both states met TANF's overall work rate in FY 2014, they did not do so by placing individuals in the kinds of activities that would be needed to meet SNAP's work rate. Indeed, the lack of commitment to providing concrete work activities to TANF recipients, despite TANF's supposedly rigorous work requirement, should be a cautionary tale of conservatives contemplating a bill as draconian as the "Welfare Reform and Upward Mobility Act." (Sadly, the experience of both states is typical of what has happened in many states across the country – it is a direct result of TANF's block grant structure with excessive state flexibility and dysfunctional work requirements.)

Cost. The Act does not provide new funding for work activities, but simply encourages states to use existing TANF funds, as well as those available through the Workforce Investment Act and the SNAP Employment and Training Program. The latter includes funding at a 50-50 federal-state matching rate.

Work programs are not cheap. The cost of implementing a work program for welfare recipients can vary greatly depending on the number of participants to be engaged, the intensity of participation, the types of activities in which people participate, the characteristics of participants (e.g., age of children, barriers to employment), the extent of participant monitoring and case management, the scope of and intensity of support services offered, management practices, and overhead costs. Doug Besharov and I attempted such an estimate for New York City's work experience program in the early 2000s.²⁹ Our estimate (in 2003 dollars) was about \$9,429 per slot per year, with about \$1,546 for site administration, \$2,228 for participant monitoring, \$4,771 for child care, and \$884 for transportation. In estimating the costs of various TANF reauthorization proposals in the early 2000s, the Congressional Budget Office and the Center for Law and Social Policy each estimated somewhat lower costs – around \$6,500 to fill a slot for a year (also in 2003 dollars).

Assuming a cost per annual slot of \$7,500 (likely a very conservative estimate), the expected total cost of increasing participation by 1.3 million parents would be nearly \$10 billion; this would rise rapidly in successive years as the participation rate rises. Of course, the reality is that states won't be able to implement these requirements as written, so the more likely result will be federal savings from federal penalties imposed on states and from families receiving reduced SNAP payments because they go to work or incur sanctions. And, while some families may be better off because they are forced to find work, a much larger number is likely to see their incomes fall, i.e., they will be pushed deeper into poverty. This is what has happened under TANF. Since nothing like the "Welfare Reform and Upward Mobility Act" has ever been implemented before, there is no way to know in advance what will happen. A better approach would be to phase in work requirements more slowly and to conduct experiments to determine the best programmatic approaches in terms of target populations, hours and activities required, and sanction policies. The authors and supporters of this legislation have no foundation for their particular approach and should exercise more caution in what they propose.

Administrative Considerations. Aside from the logistics of implementing work programs on a large scale, there are many administrative issues that the authors have not considered, particularly given their ambitious time frame. Time is needed to write regulations to implement the new law, modify data collection instruments and procedures to capture the data elements

needed to monitor whether individuals are required to participate and capture the hours of participation in appropriate activities, and to identify and engage providers of activities and support services.

Additional Information about Means-Tested Welfare Spending

Conservatives often like to note that federal and state governments currently spend over \$1 trillion annually on over 80 means-tested welfare programs that provide a range of benefits – (e.g., cash, medical care, food, housing) and services (e.g., employment and training, education, and social services) to low-income individuals.

The Welfare Reform and Upward Mobility Act requires the President’s annual budget submission to include the total level of federal and state (and local) means-tested welfare spending for the most recent fiscal year data are available and to project such spending for each of the following nine years. The Act further specifies that each state that receives federally funded means-tested welfare benefits “shall submit to the Director of the Congressional Budget Office an annual report regarding the total amount of means-tested welfare spending by the State for the fiscal year.” The Act provides a definition – really a listing – of means-tested programs.

According to Rachel Sheffield of The Heritage Foundation:

Requiring an accounting of total government welfare spending will help shed light on the size and scope of the nation’s means-tested welfare system, help debunk the common misconception that the U.S. welfare system is meager, and thus clarify the debate surrounding anti-poverty policy.³⁰

While there is value to this information, and I myself participated in developing such a compendium as part of President Reagan’s welfare reform proposal, this particular provision imposes new administrative burdens on states with little value-added. Numerous organizations already compile this information, including the Congressional Research Service and The Heritage Foundation. To implement this provision, the Congressional Budget Office (CBO) would have to take on a new data collection exercise. Moreover, most of the programs are funded solely or primarily by the federal government, yet states would have to report back to CBO, a totally redundant exercise.

Modification to Means-Tested Housing Programs

The Act would essentially create a block grant for means-tested housing programs and reduce spending by 50 percent (more if one were to adjust for inflation) over a 10-year period, starting in FY 2023 in 10 percent increments over the next five fiscal years. Rachel Sheffield explains the rationale for this “modification”:

The Act also moves the welfare system towards true federalism by requiring states to take more financial responsibility—with their own money—for one portion of the means-

tested welfare system: housing assistance programs. The bill gradually phases down the amount of federal funding for means-tested housing programs (\$52 billion in fiscal year 2015), reducing it by 50 percent over a 10-year period. States would determine the extent to which they would continue to fund means-tested housing programs using their own funds.³¹

This is the clearest statement of the entire Act's real objective – to eviscerate the safety net. Even if one believed states will fill the void or come up with creative ways to deal with the housing needs of its citizens, this bill's cuts are unprecedented. It is unlikely most states will raise taxes to make up the shortfall or come up with solutions that reduce the need for assistance by the amount of the funding reduction.

Conclusion – Let Ohio and Utah Go First

Real welfare reform should be designed to provide a safety net for the “truly needy” and provide a “hand up.” Given that the lives of the nation's most vulnerable families are at risk, I advocate an approach based on accountability and experimentation – an approach started by President Reagan, and continued by President Bush and President Clinton. This approach gave states flexibility, but they were subject to cost neutrality (not block grants) and a requirement to rigorously evaluate their reforms (generally through a random assignment experiment) so that we could determine their effects on welfare receipt, employment, total income, and a host of other outcomes.

The “Welfare Reform and Upward Mobility Act” creates a Rube-Goldberg like structure for TANF and SNAP work requirements that few states could actually implement. Its penalties for recipients and states are unprecedented in their harshness. This Act would likely destroy the safety net for needy families with children and it would be a massive mistake to implement this nationally without testing it on a smaller scale first. If conservatives view this as a model to “restart welfare reform,”³² then the more responsible approach would be to test it in a few states. Indeed, if Representative Jordan and Senator Lee are so confident that this approach will really “help” needy families then the states they represent – Ohio and Utah – should implement it first, with national implementation delayed at least two years. The early experiences in these states would provide important lessons about the implementation challenges and the effects of the Act's policies. (My apologies to the citizens of Ohio and Utah.)

¹ 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 consider myself 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>.

² In describing TANF, I use quotation marks around the word "program"; TANF is not really a program; it is really just a form of revenue sharing with a myriad of dysfunctional requirements when states use the funds to provide cash assistance to needy families; when they use the funds for other purposes, it is essentially a blank check with no accountability.

³ The Act also includes modifications to work requirements for adults without dependent children.

⁴ 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>.

⁵ Robert Rector and Rachel Sheffield, "Setting Priorities for Welfare Reform," The Heritage Foundation, February 24, 2016, available at: <http://www.heritage.org/research/reports/2016/02/setting-priorities-for-welfare-reform>.

⁶ With TANF the reduction is even more indirect. TANF is a fixed federal block grant, so any reduction in caseloads would not lead to federal savings, but rather would give states more funds to use for other purposes. However, as TANF continues to evolve for a basic assistance "program" for needy families to a slush fund, it is also more likely to be seen as such and Congress is more likely to cut its funding.

⁷ Speaker Paul Ryan, "#ConfidentAmerica: Full Text of Speaker Ryan's Remarks at the Library of Congress," December 3, 2015, available at: <http://www.speaker.gov/press-release/full-text-speaker-ryans-remarks-library-congress>.

⁸ 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>.

⁹ Peter Germanis, "The Failure of TANF Work Requirements in Wisconsin: A Note for Speaker Ryan," August 22, 2016, available at: <https://petergermanis.com/wp-content/uploads/2020/09/The-Failure-of-TANF-Work-Requirements.Wisconsin.pdf>.

¹⁰ Peter Germanis, "The Failure of TANF Work Requirements: A *Much Needed* Tutorial for the Heritage Foundation and the American Enterprise Institute," August 12, 2016, available at: <https://petergermanis.com/wp-content/uploads/2021/02/The-Failure-of-TANF-Work-Requirements.pdf>.

¹¹ It is possible that the drafters of this legislation meant to build on the concept of TANF's "work eligible individual." Section 407(i)(1)(A)(i)(IV) of the Social Security Act required HHS to regulate "the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates." The Act says the HHS regulation of "work-eligible individual" applies to "work participation rates" (rates, plural), so it could be argued that the regulatory definition of "work eligible individual" does apply to the new work preparation participation rate. I don't take this interpretation here, because the Act does not reference a work "participation" rate, but rather a work "preparation" rate. The reference to "rates" applies to the overall and two-parent work participation rates. The Act also defines a new term, "eligible participant," rather than referencing the existing term in the statute ("adult or minor child head of household" receiving assistance) or the regulatory term ("work-eligible individual"). Even if the authors meant to build on the "work-eligible individual" concept, they don't include the disregard for parents with an infant or people participating in a tribal work program.

¹² This assumes that the state does not use the entire exclusion for all recipients in the first quarter the work requirements are implemented; there are likely to be issues related to strategic and uneven claiming of this exemption, but will not be discussed in this paper.

¹³ Elissa Cohen, Sarah Minton, Megan Thompson, Elizabeth Crowe, and Linda Giannarelli, *Welfare Rules Databook: State TANF Policies as of July 2015* (Washington, D.C.: The Urban Institute, September 2016), Table II.A.4, available at: [http://wrd.urban.org/wrd/data/databooks/2015%20Welfare%20Rules%20Databook%20\(Final%2009%2026%2016\).pdf](http://wrd.urban.org/wrd/data/databooks/2015%20Welfare%20Rules%20Databook%20(Final%2009%2026%2016).pdf).

¹⁴ This figure is derived from a wide range of documents; readers interested in more detail on sources for this information should email me at petergermanis1@gmail.com. See also *TANF is Broken!*

¹⁵ This figure is derived from a wide range of documents; readers interested in more detail on sources for this information should email me at petergermanis1@gmail.com. See also *TANF is Broken!*

¹⁶ About 60,000 were in job search and job readiness assistance, but unlike the Act's new requirements, the job search component need not meet the definition of "supervised job search" as set forth in the bill.

¹⁷ Douglas J. Besharov and Peter Germanis, "Toughening TANF: How Much? And How Attainable?," March 23, 2004, p. 35, available at: http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf.

¹⁸ This estimate is of TANF recipients who meet the new SNAP work rate's definition of "eligible participant." It is somewhat crude, but close enough to illustrate the general point here, i.e., that the increase in the number of individuals that would have to be served under the new work requirements is substantial. What follows is a very brief description of how I arrived at the 1 million baseline estimate and the data sources; the exact data to make the estimate are not publicly available, so the estimate relies on simplifying assumptions, which are apparent if the reader goes to the tables referenced below. In FY 2014, there were about 1.1 million work-eligible individuals receiving TANF cash assistance (see Table 6A at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2014_final.pdf). Under the Act, those employed 100 hours a month (about 200,000; estimated from Table 4A at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2014_final.pdf) or more are not considered "eligible participants" for SNAP's work rate, nor is the second parent in a married two-parent family (about 50,000; estimated from Table 22 at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2014_final.pdf). These individuals would be subtracted in calculating the number of "eligible participants" for SNAP purposes. Added to this group, however, would be parents caring for a disabled family member (about 50,000; estimated from Table 36 at: http://www.acf.hhs.gov/sites/default/files/ofa/tanf_characteristics_fy2014.pdf) and non-citizen parents whose children receive assistance (about 100,000; estimated from Table 8 at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2014_final.pdf). As noted above, this is just a cursory estimate to illustrate a point. Even if it's off by 100,000 to 200,000, the resulting increase in required participants (i.e., the denominator) is about 4 million.

¹⁹ This estimates relies on data in Tables A.2 and A.6 in, Kelsey Farson Gray and Shivani Kochhar, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2014* (Washington, DC: Mathematica Policy Research for the U.S. Department of Agriculture, December 2015), available at: <http://www.fns.usda.gov/sites/default/files/ops/Characteristics2014.pdf>.

²⁰ The reduction is undoubtedly larger, given that many SNAP cases are on the rolls less than a year and there is considerable turnover in the caseload. For example, a family that receives SNAP for just three months need not be counted at all.

²¹ The magnitude of this estimate is roughly similar to that derived by Robert Rector and Rachel Sheffield of the The Heritage Foundation, who state: "In an average month in 2014, there were 8 million to 9 million able-bodied parents receiving food stamp benefits; around half of these were not employed." See: Robert Rector and Rachel Sheffield, "Setting Priorities for Welfare Reform," The Heritage Foundation, February 24, 2016, available at: <http://www.heritage.org/research/reports/2016/02/setting-priorities-for-welfare-reform>.

²² Parents on SNAP who work less than 100 hours would count, but they would be required to participate in these activities as well to reach the minimum of 100 hours. If they increase their hours of employment to more than 100 hours, they are no longer subject to the work requirement and come out of the participation rate calculation.

²³ Rachel Sheffield, "Welfare Reform and Upward Mobility Act Can Restart Welfare Reform," The Heritage Foundation, October 28, 2016, available at: http://www.heritage.org/research/reports/2016/10/welfare-reform-and-upward-mobility-act-can-restart-welfare-reform#_ftn12.

²⁴ Center on Budget and Policy Priorities, "Kansas: TANF Caseload and TANF-to-Poverty Ratio Fact Sheet," available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_ks.pdf.

²⁵ See Table 4A at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2014_final.pdf.

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²⁷ Center on Budget and Policy Priorities, "Maine: TANF Caseload and TANF-to-Poverty Ratio Fact Sheet," available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_me.pdf.

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