

Saving Speaker Ryan: 20 Reasons Why TANF is NOT “Welfare Reform,” NOT a Model for Reforming the Safety Net, and NOT Conservatism

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Most conservatives believe the 1996 welfare reform, particularly the creation of the Temporary Assistance for Needy Families (TANF) block grant has been a success and is a model for reforming other safety net programs. For example, writing in 2013 for the *Wall Street Journal*, Speaker Ryan said:

After the welfare reforms of 1996, child poverty fell by double digits. This budget extends those reforms to other federal aid programs. It gives states flexibility so they can tailor programs like Medicaid and food stamps to their people’s needs. It encourages states to get people off the welfare rolls and onto payrolls. We shouldn’t measure success by how much we spend. We should measure it by how many people we help. Those who protect the status quo must answer to the 46 million Americans living in poverty.²

In his December 3, 2015, speech at the Library of Congress, he laid out his vision for 2016 and reiterated this message:

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

. . . I’d combine a lot of them [welfare programs] and send that money back to the states for better poverty-fighting solutions. Require everyone who can to work. Let states and communities try different ideas. And then test the results.³

The idea that TANF 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.

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 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: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf>.

² Paul Ryan, “The GOP Plan to Balance the Budget by 2023,” *The Wall Street Journal*, March 12, 2013, available at: <http://www.wsj.com/articles/SB10001424127887323826704578353902612840488>.

³ 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>.

As Ron Haskins, an architect of the 1996 law recently observed regarding TANF's record, "States did not uphold their end of the bargain. So, why do something like this again?"⁴ Until conservatives learn the lessons of TANF, they are not prepared to undertake more comprehensive reforms like Speaker Ryan's "Opportunity Grants" or extend work requirements to other programs.⁵

TANF should not be held out as an example of "conservatism." It is time for real conservative solutions – solutions that reflect conservative principles, common sense, and operational realities. This paper presents an alternative conservative perspective to the conventional wisdom that the 1996 welfare reform law was an "unprecedented success." It is intended to "save" conservatives from themselves – but more importantly to save the poor from misguided policymaking.

20 Reasons Why TANF is Broken

Writing about the politics of the 1996 legislation, Robert Rector of the Heritage Foundation stated: "It isn't enough to get the technical details of a policy right. Words and symbols matter, too."⁶ Unfortunately, when it comes to the TANF legislation, Congress got virtually every technical detail wrong. This paper identifies 20 conceptual, technical, and practical problems in the law (or a direct result of the law). Each problem includes an overview of the issue and a "solution." This list of problems and solutions is intended to help Speaker Ryan and others in Congress as they consider TANF reauthorization and broader reforms of the safety net.

TANF Undermines Evidence-Based Research and Evidence-Based Policy-Making

In describing his vision of welfare reform, Speaker Ryan has emphasized the importance of building an evidence base:

...let states try different ways of providing aid and then to test the results – in short, more flexibility in exchange for more accountability. ...Put the emphasis on results. ...[w]e would not expand the program until all the evidence was in. The point is, don't just pass a law and hope for the best. If you've got an idea, let's try it. Test it. See what works. Don't make promise after promise. Let success build on success.⁷

This approach is exactly right; sadly, TANF does just the opposite.

1. TANF replaced an evidence-based welfare reform model, which had strict accountability measures, with a blank check with virtually no meaningful

⁴ Eduardo Porter, "The Republican Party's Strategy to Ignore Poverty," *The New York Times*, October 27, 2015, available at: <http://www.nytimes.com/2015/10/28/business/economy/a-strategy-to-ignore-poverty.html>.

⁵ For more detail on comprehensive conservative proposals for reform the safety net, see: Peter Germanis, "How to Really Discuss Poverty like Grown-Ups: A Cautionary Tale about 'Opportunity Grants,' the 'Flex Fund,' and 'Serious' Conservative Anti-Poverty Strategies," November 4, 2015, available at: <http://mlwiseman.com/wp-content/uploads/2015/11/How-to-Really-Discuss-Poverty-Like-Grown-Ups.pdf>.

⁶ Robert Rector, "Bill Clinton was Right," *The Washington Post*, August 23, 2006.

⁷ Rep. Paul Ryan, "Expanding Opportunity in America," July 24, 2014, available at: <http://paulryan.house.gov/news/documentsingle.aspx?DocumentID=389081>.

accountability. In 1987, President Reagan started encouraging states to use existing authority to conduct welfare reform experiments – through waivers of AFDC’s rigid rules (and, to a lesser extent, food stamp and Medicaid rules due to more limited waiver authorities for those programs). This approach was continued by President Bush and President Clinton. When the 1996 law passed, many states simply continued these policies – they didn’t need TANF to enact “welfare reform.” This process did not provide a fixed level of funding, like block grants. Instead, it relied on an approach that would provide a real counterfactual using the “gold standard” of evaluation – random assignment.⁸ 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. As a result, it would be possible to know whether state reforms actually reduced welfare dependency by increasing self-sufficiency. And, the experience of the control group could be used to ensure cost-neutrality, as the budgetary effects of any programmatic changes would be measured by examining the experimental-control group differences in costs. TANF replaced this approach with one that essentially provides states a blank check with no accountability. Solution: In reforming any safety net program, look to the “Reagan model” – build in accountability and evaluation to ensure that the reform actually succeeds in reducing dependency and poverty. Do not replicate the “TANF model.”

- 2. TANF’s limited funding for research has stifled evidence-based learning.** One of the arguments for the block-grant approach is that states would become laboratories for testing new approaches to promote self-sufficiency among welfare recipients. In fact, the opposite happened, as states were no longer required to rigorously evaluate their welfare reforms and we know little about the effects of most reform policies. Liz Schott, LaDonna Pavetti, and Ife Floyd of the Center on Budget and Policy Priorities observe:

The result is that, 19 years after TANF’s creation, we still have no rigorous evidence to inform debates about expanding work requirements to other programs. Similarly, because few states have implemented innovative employment strategies for families with substantial personal and family challenges, we still have very limited knowledge about how to significantly improve their employment outcomes. In short, states had an opportunity to innovate and rigorously evaluate new approaches to service delivery, but that is not the path they chose.⁹

The knowledge gap is not limited to work requirements. There is little evidence regarding the impact of time limits, sanctions, family caps, diversion programs, and an array of other provisions. Some policies have undoubtedly helped families move toward self-sufficiency, others have just as surely pushed them deeper into poverty.

⁸ 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).

⁹ Ife Floyd, LaDonna Pavetti, and Liz Schott, “TANF Continues to Weaken as a Safety Net,” October 27, 2015, available at: <http://www.cbpp.org/research/family-income-support/tanf-continues-to-weaken-as-a-safety-net>.

The 1996 welfare law included a provision supporting welfare research, but the amount is only about \$15 million per year, representing less than one-tenth of one percent of the federal block grant. Solution: Invest in research. Increase funding for research to \$150 million per year (still less than one percent of the block grant) and require states to evaluate TANF policies, particularly those that put children at risk. Speaker Ryan’s recommendation to give states flexibility and “test” the results can only start with a meaningful investment in rigorous research. It’s long past time to look to research – not politicians and ideologues – for evidence about what works and what doesn’t and then to act on that evidence.

TANF Funding and Flexibility: How Congress Shot Itself in the Foot and Blew a Hole in the Safety Net¹⁰

With respect to TANF, Congress took a simple, straightforward funding mechanism and replaced it with a myriad of flawed and ineffective funding formulas. Worse, it gave states excessive flexibility to divert billions of dollars from core welfare reform activities – basic assistance, welfare-to-work activities, and child care – to use TANF as a slush fund to fill state budget holes. The result is a huge hole in the safety net and work requirements that don’t work as they should – to provide a hand up.

- 3. TANF’s block grant structure is not responsive to changes in economic conditions and demographic shifts.**¹¹ There are more families with children in poverty today than when TANF was created. (The same is true of other related measures – the number of families with children in deep poverty and the number of families eligible for TANF cash assistance.) Yet, since 1994 (before the 1996 law), the caseload has steadily declined – in good times and bad. The TANF-to-poverty ratio fell from 68 in 1996 to 23 in 2014.¹² During the Great Recession, the caseload rose slightly, but that was mainly due to states exhausting the over \$1 billion remaining in the Contingency Fund and the creation of the \$5 billion Emergency Fund. Relying on Congress to make periodic adjustments for economic downturns is not an effective approach for ensuring that needy families receive assistance, nor is it consistent with other safety net programs. Solution: Revert to a federal-state match.¹³

¹⁰ This section describes the statutory provisions that relate to TANF being an ineffective and inadequate funding mechanism for a safety net program. For a discussion of how badly the safety net has been shredded, 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: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf> and Peter Germanis, “‘Welfare Reform’ Increased Poverty and No One Can Contest It: A Note to Conservatives,” April 24, 2016.

¹¹ For more detail, see Peter Germanis, “Which Safety-Net Programs Responded to the Recession? A Brief Response to Scott Winship.,” January 17, 2016, available at: <http://mlwiseman.com/wp-content/uploads/2015/11/Germanis2016SafetyA.pdf>.

¹² Ife Floyd, LaDonna Pavetti, and Liz Schott, “TANF Continues to Weaken as a Safety Net,” October 27, 2015, available at: <http://www.cbpp.org/research/family-income-support/tanf-continues-to-weaken-as-a-safety-net>.

¹³ Some conservatives will undoubtedly worry that a federal-state match will create incentives for states to raise caseloads. In this regard, it is worth noting that at least there would be a state match, in contrast to SNAP (for benefits), housing assistance, and an array of other welfare programs that are fully federally funded. It is clear that giving states 100 percent of the savings from reducing caseloads has gone too far in the other direction, as many

- 4. State TANF block grant amounts are inequitable, with vast disparities across states and over time.** The block grant amounts are based on historic funding levels in TANF's predecessor programs. The difference in federal grants per poor child in 1995 ranged from \$263 in Arkansas to \$2,530 in Connecticut *per year* (\$402 to \$3,871 in 2013 dollars, respectively). In 2013 the *per year* difference ranged from \$280 in Texas and to \$2,572 in Vermont.¹⁴ As a welfare program, the vast disparity in federal funding per poor child is troubling. But, TANF is really revenue sharing, so why federal taxpayers would fund a revenue sharing program today based on historic spending in TANF's predecessor programs makes no sense at all. And, inflation has reduced the value of the block grant by about one-third.

The initial group of governors who negotiated the block grant amounts in 1996 got a tremendous deal – they received far more in federal funding than they would have in the absence of the law because the block grant amounts were based on expenditures levels when caseloads were at historic highs. The windfall disappeared within 5 to 10 years in most states, due to inflation and (in many states) demographic changes. For example, Wisconsin received over \$100 million (about 25 percent) more in the TANF block grant in fiscal year (FY) 1997 than it would have received in the absence of TANF; the block grant provided \$5,637 per poor family with children (in 2014 \$). By 2012, due to inflation and demographics, the block grant provided just \$2,865 per poor family with children (in 2014 \$).¹⁵ Solution: Base funding for a safety net program on economic need; not state expenditure patterns that existed nearly a quarter century ago. The key to reducing welfare spending should be to help poor families become self-sufficient, not a hidden tax called “inflation.”

- 5. TANF dollars can be used to supplant state expenditures, with no benefit for federal taxpayers or the poor.** Since TANF's inception, states have used tens of billions of federal TANF dollars to simply replace existing state spending. For example, Jon Peacock of the Wisconsin Budget Project explains how “a significant portion of the federal funding for ... assistance is being siphoned off for use elsewhere in the budget, to the detriment of the Wisconsin Works (W-2) program and child care subsidies for low-income working families.”¹⁶ It would be one thing if poverty had declined in Wisconsin since TANF's enactment, but the poverty rate for children in Wisconsin grew from 14.3 percent in 1997 to 18.4 percent in 2011. If the supplanted funds were used to fund other

states have shredded the safety net to use the funds to fill budget holes unrelated to welfare reform. States should be given incentives to reduce caseloads by actually motivating and helping families obtain jobs – instead, that function too has failed under TANF. If there is a concern about costs, the match does not have to be open-ended, although as noted below, the current allocation is neither fair nor adequate.

¹⁴ Gene Falk, “Temporary Assistance for Needy Families (TANF): Financing Issues,” Congressional Research Service, September 8, 2015.

¹⁵ For more detail, see Table IV-2, “A Tale of Two Governors: The Best of Times and the Worst of Times (Gov. Thompson (1997) vs. Gov. Walker (2012)) in *TANF is Broken! It's Time to Reform “Welfare Reform” (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015 draft, available at: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf>.

¹⁶ Jon Peacock, Wisconsin Budget Project, “Funding for Low-Income Families Siphoned off for Other Uses,” April 29, 2013, available at: <http://www.wisconsinbudgetproject.org/>.

programs for poor families, the practice would be less harmful, but that doesn't seem to be what happens in Wisconsin. According to Peacock, "That shell game uses TANF funds to free up state funds [general purpose revenue] (GPR) to use for other purposes, such as the proposed income tax cuts."¹⁷

Congress did attempt to ban supplantation with state maintenance-of-effort (MOE) dollars. State and local governmental expenditures on programs that existed in fiscal year (FY) 1995 and were not part of the state's AFDC and related programs can be claimed only be claimed as MOE to the extent that they are higher than the spending in FY 1995. In other words, only new spending on qualifying activities can count. Of course, since that level is not adjusted for inflation, over time states can count more preexisting spending that rises simply because of inflation. In effect, this permits supplantation with MOE funds as well. And, some states have also tried to reclassify "pre-existing" programs as "new" programs by asserting the modest changes in programmatic structure constitute a "new" program. Solution: Limit TANF funding to core welfare reform activities – basic assistance, welfare-to-work programs, and child care.

- 6. TANF's broad purposes combined with excessive flexibility have allowed states to use TANF like a giant slush fund – it has become welfare for states, not needy families.** TANF's four purposes are to: (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families. And, the flexibility to determine allowable uses is derived from section 417 of the law (added in 1996), with the heading "Limitation on Federal Authority":

No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

The first two purposes are consistent with traditional welfare reform activities – basic assistance and welfare-to-work activities, but the addition of purposes 3 and 4 has allowed states to claim billions of dollars on activities that not only have little connection to welfare reform, but little direct connection to the purposes themselves. For example, purpose 3 is focused on preventing and reducing out-of-wedlock pregnancies. This may include activities that are directly related to this purpose, such as abstinence education and teen pregnancy prevention services. It may also include nurse home visiting, for which there is evidence of effectiveness from rigorous evaluations. However, states also claim billions of dollars on activities that have no such direct connection or evidence base. For example, some states argue that college scholarships for young, single adults advance purpose 3, because such scholarships are intended to increase school achievement and because greater educational attainment is correlated with reduced non-marital childbearing. If the young adults are married, they argue that it promotes purpose

¹⁷ *Ibid.*

4. There is no credible research evidence to support these claims and while these activities may be worthwhile in their own right, TANF is a fixed amount of money, so a dollar diverted to these supposed purpose 3 and 4 activities means a dollar less for core welfare reform activities. In many cases, such spending doesn't even reflect an increase in actual spending, but rather supplantation or filling budget holes. Solution: Limit TANF to core welfare reform activities; for purposes 3 and 4, establish a separate funding mechanism with a rigorous evaluation component to test interventions that have a clear and direct connection to the purposes. If accountability is important, and it should be, a provision like section 417 that limits the ability of the federal government's oversight is ill-advised.

7. TANF is a blank check with virtually no meaningful accountability. Members of Congress often complain about the lack of accountability in programs, as reflected in the House Budget Committee's FY 2017 budget recommendation to terminate the Social Services Block Grant (SSBG):

The Social Services Block Grant is an annual payment sent to States – without any matching, accountability, or evaluation requirements – intended to help achieve a range of social goals, including by providing child care, health, and employment services. ...States are given wide discretion to determine how to spend this money and are not required to demonstrate the outcomes of this spending, so there is no evidence of its effectiveness.¹⁸

The House Budget Committee's concerns about the SSBG, particularly the lack of matching, accountability, and evaluation, pale in comparison to those of TANF, yet the Committee believes TANF is a huge success.

TANF has no meaningful matching requirement – its MOE requirement has been eroded by inflation and the broad flexibility states have in what counts as an allowable expenditure minimizes its usefulness in maintaining a serious state commitment. TANF's main accountability measures are limited to "assistance" (less than \$9 billion); leaving little accountability for the \$20+ billion in "non-assistance" expenditures. There are hundreds of different state programs funded as "non-assistance," with little information on what they do, their cost, the number of families served, and their effectiveness. And, as noted above, TANF replaced an evidence-based, evaluation driven approach to welfare reform with a blank check to states with no accountability. Solution: TANF funds should be reserved for core welfare reform activities, and meaningful accountability and evaluation requirements should be restored.

8. TANF's broad purposes combined with excessive state flexibility have allowed states to establish programs that have either no income limit or very high income limits. States can currently set income limits as high as they want as they determine the meaning of "needy"; and for some activities, there are no income limits, as purpose 3 and 4 activities funded with federal dollars are not limited to needy families. TANF provides

¹⁸ U.S. House of Representatives, Committee on the Budget, *Concurrent Resolution on the Budget – Fiscal Year 2017*, March 2016, p. 171, available at: http://budget.house.gov/uploadedfiles/fy2017_budget_resolution.pdf.

assistance to only 23 families per 100 poor families with children; its welfare-to-work programs reach only a tiny fraction of families eligible for cash assistance. There is no reason funds should be diverted to those above poverty when the program does such a poor job serving the poor. Solution: Restrict spending to families with minor children with incomes below the poverty line.

- 9. The elimination of the “individual entitlement” has allowed states to adopt policies that terminate families without any regard to whether such policies actually promote TANF’s purposes.** Prior to TANF, states could receive waivers to experiment with time limits and other policies that reduced or terminated assistance. These policies were intended to encourage welfare recipients to take steps toward self-sufficiency and were usually accompanied by financial incentives and services to help make that transition. As a condition for receiving waivers, states were required to conduct rigorous evaluations to determine their effects on earnings, welfare receipt, and other outcomes of interest.

Under TANF, state politicians make these decisions without any evaluation or concern as to whether the policies actually promote TANF’s goals. For example, Arizona recently passed a one-year time limit on the receipt of cash assistance. In FY 2014, the state spent just 16 percent of its TANF/MOE funds on basic assistance, work activities, and child care.¹⁹ Instead of helping needy families with children receive the help and assistance they need, the state uses TANF as a slush fund to fill budget holes. Thom Reilly and Keiran Vitek of the Morrison Institute for Public Policy note:

TANF was designed to serve two explicit functions: to help poor adults with children move into the labor market, and to provide a safety net for families when they cannot work. It seems clear that Arizona has abandoned these two original functions and instead chosen to funnel TANF funds into an overburdened and underfunded child welfare system that has been plagued over the years by both structural and operational failures.²⁰

Welfare reform was supposed to be about helping poor families move from welfare to self-sufficiency by providing a hand-up. This might involve “tough love,” but many states have taken this flexibility too far. Solution: Restore the entitlement to assistance; allow state flexibility but require rigorous evaluation for proposals that reduce or terminate assistance to determine the impact on affected families. And, end the dependence of state politicians on the TANF funding stream by limiting TANF’s allowable uses to core welfare reform activities.

- 10. The TANF block grant structure with a separate MOE requirement has allowed states to avoid federal requirements by being selective about which funding**

¹⁹ Center on Budget and Policy Priorities, “Arizona: TANF Spending Fact Sheet,” October 2, 2015, available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_az.pdf.

²⁰ Thom Reilly and Keiran Vitek, “TANF cuts: Is Arizona shortsighted in its dwindling support for poor families?”, June 3, 2015, p. 1, available at: https://morrisoninstitute.asu.edu/sites/default/files/content/products/TANF.doc_0.pdf.

stream(s) to use. Congress shot itself in the foot when it adopted the block grant/MOE structure. States have used this funding structure to game federal work requirements, time limits, and many other federal requirements by being selective about which funding stream to use. Solution: Revert to a federal-state match; don't use a funding structure that allows states to game federal requirements simply by permitting them to be selective about which funding stream to use. (Of course, federal requirements should be feasible and reasonable, unlike TANF's requirements.)

11. TANF's Contingency Fund for economic downturns is unresponsive to economic conditions. The Contingency Fund was intended to provide additional funding during economic downturns, but the triggers used to establish eligibility don't work – the unemployment rate trigger might not qualify states with very high unemployment rates in many years because the rates have to be rising, while the food stamp (now SNAP) trigger has made virtually all states eligible for the past six years and for the foreseeable future because it is based on food stamp caseloads over 20 years ago. To qualify for contingency funds, states have to meet a separate and higher MOE requirement (100 percent of historic spending vs. the basic MOE requirement of 80 percent of historic spending; and child care and spending in separate state programs does not count). Given the broad flexibility states have to count an array of state spending (and non-governmental “donations”) this provision has often not encouraged states to spend more of their own resources, but only to seek out more existing state spending that meets a broad TANF purpose. Last, the intent of the Contingency Fund was to help states provide basic assistance during periods of rising need, but there is no requirement that states spend the money on basic assistance; instead, they can spend it on any activity that meets a TANF purpose and can supplant existing state expenditures or use it as a slush fund to fill budget holes. Solution: Revert to a federal-state matching program where states only receive added funds if they spend those funds on core welfare reform activities. Do not rely on a flawed funding mechanism or congressional action to respond to economic downturns – neither approach works.

12. TANF's Supplemental Grants for states that had high population growth and/or low historic grants relative to poverty in the state were based on a flawed formula. The initial formula left out a number of poor states and was not adjusted for subsequent changes in economic and demographic conditions. Between 1995/96 and 2012/13, only 6 of the 17 states had increases in the number of poor families with children in excess of 35 percent, and 4 states actually had declines, including Louisiana after Hurricane Katrina forced many families out of state. Meanwhile, 6 states that did not qualify initially did have an increase in the number of poor families with children greater than 35 percent, including Wisconsin (38 percent). This funding stream was ended in 2011, despite the fact that it addressed a real problem, though not effectively. Solution: Revert to a federal-state matching program that can be responsive to demographic shifts. Do not rely on a flawed funding mechanism or congressional action to respond to economic downturns – neither approach works.

13. TANF's bonus provisions were not effective performance incentives. The “illegitimacy” bonus provided for \$100 million in annual bonuses for the five states with

the largest reductions in non-marital births (as measured by the “illegitimacy ratio” – the number of non-marital births divided by the number of all births to residents in the state), while also reducing their abortion rate below the 1995 level. The Lewin Group surveyed states about their views and experiences regarding their policies to prevent or reduce non-marital childbearing, noting that, “Officials in nearly all study states said that potential availability of the bonus had little, if any, impact on state efforts to reduce non-marital childbearing, and among study states receiving the bonus, only one of three directed bonus funds toward non-marital pregnancy prevention activities.”²¹ The report also found that among the winning states, some had made no special efforts in response to the bonus and indeed one state was so surprised that it won that it only examined the bonus provision after winning the bonus. Instead, the bonus seemed to reward states more due to demographic shifts than policy responses to the bonus.

TANF’s “High Performance Bonus” (HPB) provided \$200 million per year in awards for states that were most successful in achieving the purposes of the TANF program. Performance was measured in multiple categories, including various work-related measures (job entry, job retention, and earnings gain), as well as measures related to participation in various welfare programs and the percent of children in a state living in two-parent families. State HPB awards were based on simple rankings, with no adjustments for economic, demographic and policy factors. As Gene Falk of the Congressional Research Service notes, “These two bonuses were repealed in 2006. A key issue was that these broad outcome measures could not be tied to what states were doing in their TANF programs.”²² Performance was based on simplistic data comparisons, not a real counterfactual, and the amount of funding was too small (about 1.2 percent of the block grant) and diffused across too many measures to really motivate state behavior.

Solution: To reward state performance, a real counterfactual is needed (not a simplistic pre-post measure or ranking of states). This is what existed before TANF replaced President Reagan’s waiver-based approach. That model was based on random assignment evaluation that could isolate the influence of economic, demographic, and policy factors; that is the approach Congress should be looking to again. Moreover, to serve as an incentive, bonuses should be large enough to actually motivate state behavior.

TANF Work Requirements: An Epic Fail

Speaking to the Heritage Foundation in September 2012, Speaker Ryan said:

²¹ Mark W. Nowak, Michael E. Fishman, and Mary E. Farrell, *State Experience and Perspectives on Reducing Out-of-Wedlock Births: Final Report*, The Lewin Group, February 2003, pp. iv-v.

²² Gene Falk, “The Temporary Assistance for Needy Families Block Grant: Issues for the 112th Congress,” October 11, 2011, available at: <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R41781.pdf>.

[The 1996 welfare reform law] is the crown jewel and the centerpiece of some of the most successful social policy legislation we've passed. It lowered child poverty rates, it moved people from welfare to work – because of these work requirements.²³

TANF's work requirements have never worked. The block grant structure has created a situation in which many states don't have the resources to run meaningful welfare-to-work programs, as the amount is not adjusted for inflation or demographic changes. And, the excessive state flexibility means that states can game the requirements to meet the federal work rate targets and, then divert the funds to uses unrelated to core welfare reform activities. TANF's work requirements are unreasonable, dysfunctional, and are not about work. Real welfare reform requires adequate funding, realistic work requirements, and rigorous evaluation so that we can learn what works and what doesn't and build on an evidence base. Welfare reform should be about giving needy families a hand up, but instead, under TANF, it has abandoned them.

14. TANF's target work requirements are unreasonable, leading states to game them thanks to the myriad of loopholes Congress created (described below). Under AFDC/JOBS, the work rate target in FY 1995 was 20 percent; TANF raised this to 50 percent and applied it to a larger non-exempt population.²⁴ It is noteworthy that none of the many welfare-to-work programs that had been rigorously evaluated in the years preceding TANF would have met its 50 percent work participation requirement. As Gordon Berlin of MDRC explains:

None of the welfare-to-work programs evaluated by MDRC to date – even the most effective ones – would have met the standards currently in place (that is, had states received no credit for caseload reductions), primarily because too few people participated in them for at least the minimum number of hours per week.²⁵

Most states relied on the caseload reduction credit and other loopholes created by Congress itself. Solution: Establish reasonable work rate targets that reflect state capacity and resources; eliminate the separate two-parent rate; and close loopholes (see below). The goal should be to encourage states to run meaningful welfare-to-work programs; not to game federal work requirements.

15. TANF's minimum work hours requirements are unreasonable. The 1996 law changed the overall work participation rate for a state by requiring that at least 50 percent of TANF families with an adult engage in one or more of 12 specified work activities for a minimum average of 30 hours per week (or 20 hours per week in nine "core" activities for a single parent with a child under six years of age) each month. This translates into about 130 hours per month (or 87 hours for a single parent with a child under six). In 14 states, the maximum TANF benefit is under \$300. The TANF expectation that families

²³ Cited in Rob Bluey, "Paul Ryan: HHS Welfare Work Waiver Will Undermine 1996 Reforms," *The Daily Signal*, September 13, 2012, available at: <http://dailysignal.com/2012/09/13/paul-ryan-hhs-welfare-work-waiver-will-undermine-1996-reforms/>.

²⁴ TANF's overall work rate requirement was phased in from 25 percent in FY 1997 to 50 percent by FY 2002 and thereafter. It also raised the two-parent rate to 90 percent.

²⁵ Gordon L. Berlin, "What Works in Welfare Reform: Evidence and Lessons to Guide TANF Reauthorization," MDRC, June 2002, pp. 36-37, available at: http://www.mdrc.org/sites/default/files/TANFGuide_Full.pdf.

in these low-benefit states value their time at \$2 per hour or less is unreasonable. In no state, does the maximum grant for a family of three divided by 130 hours per month result in an hourly valuation as high as the minimum wage. Solution: Set the maximum hourly requirement equal to the grant divided by the minimum wage.

16. TANF’s restrictions on counting education and training activities are inconsistent with research findings. TANF has 12 work activities that can count toward the work rates; nine are “core” activities that can count toward any hours of work participation for a work-eligible individual, while participation in the three “non-core” activities generally counts only after meeting an average of 20 hours per week in a core activity. Only one of the nine core activities is related to education and training – vocational educational training and states cannot count an individual in this activity for more than 12 months in a lifetime. In addition, no more than 30 percent of families that a state counts toward its work rate may be counted by virtue of participation in vocational educational training or, for parents under age 20, school attendance or education directly related to employment.

Most conservative advocates who support TANF’s work-first orientation for work requirements rely on limited and outdated research studies to support their viewpoint. Much of the research on the relative merits of work first versus an education-based approach is based on programs that operated about 20 years ago, including periods before TANF’s implementation. As Gordon Berlin of MDRC explains:

The challenge for policymakers is to find ways to maintain the employment orientation that underlies reform’s success, while opening the door to additional education and training. Results from carefully designed tests of job-search-first programs, education-first programs, and mixed-strategy programs provide strong support for the idea that education and training have an important, although probably subsidiary, role to play in the future of welfare reform. The evidence indicates that both job-search-first and education-first strategies are effective but that neither is as effective as a strategy that combines the two, particularly a strategy that maintains a strong employment orientation while emphasizing job search first for some and education first for others, as individual needs dictate. There is little evidence to support the idea that states should be pushed to one or the other extreme.²⁶

This sentiment is echoed by many state officials, such as Wisconsin’s own Secretary of the Department of Children and Families. Testifying before the House Ways and Means Committee, Eloise Anderson argued that the “the participation requirements, as currently structured, must be revised to ensure that the standards align with the ultimate goal of the TANF program: moving recipients from welfare to work.”²⁷ Based on her experience,

²⁶ Gordon L. Berlin, “What Works in Welfare Reform: Evidence and Lessons to Guide TANF Reauthorization,” MDRC, June 2002, pp. 36-37, available at: http://www.mdrc.org/sites/default/files/TANFGuide_Full.pdf.

²⁷ Eloise Anderson, Secretary Wisconsin Department of Children and Families and Chairperson of the Secretaries Innovation Group Before the Committee on Ways and Means Subcommittee on Human Resources U.S. House of Representatives April 30, 2015, available at: <http://waysandmeans.house.gov/wp-content/uploads/2015/06/Eloise-Anderson-Testimony-043015-HR3.pdf>.

she recommended a number of changes to the work requirements, including eliminating the distinction between core and non-core hours, recognizing the need for more flexibility in counting educational and training activities. Solution: Eliminate rules for counting education and training. It's long past time to look to research – not conservative ideologues – for evidence about what works and what doesn't and then to act on that evidence.

17. TANF's work requirements are filled with loopholes. The following is a summary of the loopholes, all of which were created by Congress; they are described in more detail in "TANF Work Requirements: An Epic Fail," in *TANF is Broken!* Congress attempted to close some of the loopholes in the Deficit Reduction Act of 2005, but in doing so opened the door to new ones because it failed to deal with TANF's structural problems stemming from the block grant structure and excessive state flexibility.

- **The caseload reduction credit.** The 1996 law changed the overall work participation rate for a state by requiring that at least 50 percent of TANF families with an adult engage in specified work activities. The caseload reduction credit reduced the work participation targets to the extent states lowered caseloads below FY 1995 levels (changed to FY 2005 starting in FY 2007). For most years since TANF's inception through FY 2011, 20 to 30 states faced a 0 percent work target (meaning that in order to avoid a penalty, they had to engage 0 percent of their caseload a certain number of hours per week in the statutorily prescribed work activities). States already have an incentive to reduce the caseload because the number of cases they would have to place in work activities would decline; giving them further credit in reducing the target rate all the way to 0 percent was a massive conceptual error that totally gutted the work requirements in most states. Solution: Select a target rate that is reasonable, predictable, and constant.
- **Limiting work requirements to TANF adult recipients.** TANF work requirements initially were 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. After the Deficit Reduction Act of 2005, the work requirements included families with a "work-eligible individual" (including some non-recipient parents) in both TANF and separate state programs. Solution: None needed; this problem illustrates the need for care in drafting legislation in the first place.
- **Excess MOE.** The Deficit Reduction Act of 2005 recalibrated the base year for caseload reduction credit from FY 1995 to FY 2005. In many states, caseload declines had stalled, but a regulatory provision allowed states to reduce their comparison year caseload by spending in excess of their MOE requirement. (Note: While this is a regulatory provision, it is only possible because Congress replaced the federal-state match with a block grant and a separate MOE requirement. The concept of "excess MOE" would not exist in a federal-state

matching program.) 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, including third-party nongovernmental expenditures, just so that they could artificially inflate the caseload reduction credit. 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. Solution: Get rid of the block grant structure with its separate MOE requirement; revert to a federal-state match.

- **Separate state programs.** Until FY 2007, families assisted through separate state programs were not subject to TANF’s work requirements. Congress was either careless in writing the law or it intentionally created a massive loophole. By 2005, over half the states had such programs and their primary purpose was to remove 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 work participation rate target was considered unachievable. States also moved other families that were not likely to meet the work requirements to these separate state programs, including those applying for SSI, with employment barriers, or caring for a disabled family member. Although Congress included families in separate state programs in the work rate starting in FY 2007, this was too little, too late. It simply led to a new loophole – solely state funded programs. Solution: None needed; this problem illustrates the need for care in drafting legislation in the first place.
- **Solely state funded programs.** Congress eliminated the separate state program loophole in the Deficit Reduction Act by requiring states to include such families in the work participation rate calculation. However, the TANF law has made it very easy for states to meet their basic MOE requirement without spending more money and most 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. Inflation has further reduced the state requirement so that it is 50 percent of what it was before TANF. Add to this the fact that under TANF states can count virtually any state expenditure that meets a TANF purpose and even the value of third-party non-governmental “donations,” it’s easy for most states to generate a significant amount of “excess MOE.” As noted above, this can be used to maximize the caseload reduction credit, but a state can also just fund part of its assistance caseload outside the TANF/MOE structure in solely state funded programs so those families are not subject to TANF’s work requirements. Solution: Get rid of the block grant structure with its separate MOE requirement; revert to a federal-state match.
- **The failure to *define* work activities.** When Congress wrote the TANF statute, it “defined” work activities simply by listing 12 activities. Some states were defining work activities 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.” (Note: Many of these activities could be found in Wisconsin’s 2004 Annual Report on State TANF Programs.) Congress addressed this loophole in the Deficit Reduction Act of 2005 by requiring HHS to actually define work activities, instead of just listing them. Solution: None needed; this problem illustrates the need for care in drafting legislation in the first place.

- **Waiver inconsistencies.** States with section 1115 welfare reform waivers when the 1996 welfare reform law was enacted were allowed to continue the waiver policy to the extent it was inconsistent with TANF through the end of the approved project period. While states still had to meet the new work participation rate targets, they could continue to operate under pre-TANF policies that often gave them a distinct advantage in the meeting these rates. Twenty states continued such waivers, which included provisions related to exemptions, countable work activities, and hours of participation. Aside from weakening TANF’s work requirements, it is unclear why Congress thought it was fair to give some states such a huge advantage in meeting their work targets (and potentially avoiding a financial penalty) for as long as 5 to 10 years after enactment of TANF. Solution: As a matter of fairness, particularly when penalties may be involved, all states should face the same rules. While transition periods for change are worth considering, they should be reasonable and relatively short.
- **Counting “unsubsidized employment” as an activity.** Under TANF’s predecessor program, AFDC/JOBS, a full-time worker was exempt from participation requirements; TANF made it a countable activity. This made it considerably easier for states to meet their work rates. The states that gained most from this decision are those with the highest breakeven levels (which are a function of the generosity of benefits and earnings disregards). This was basically a windfall for states in being able to count individuals as “participants” and combined with the caseload reduction credit meant that most states had to do little or nothing in terms of placing individuals in actual work or training activities. Indeed, participation in actual work activities has plummeted since TANF was created, falling even faster than the caseload – yet the number of needy families with incomes low enough to receive TANF has remained the same. Solution: Full-time, unsubsidized employment is the goal; it should be an exemption, not an activity.
- **“Unsubsidized employment” as a “gimmick.”** One of the gimmicks states employ to meet work rates is to pay a token benefit (e.g., \$10 a month) to full-time working families just to be able to count them in the work rate calculation. In FY 2015, these cases account for nearly 20 percent of the TANF/SSP caseload; they have nothing to do with “welfare reform,” yet they will dominate the countable participants in the work participation rate. This gimmick is possible because Congress made unsubsidized employment an activity; it would not have

been available if it had remained an exemption as under JOBS. Solution: Full-time, unsubsidized employment is the goal; it should be an exemption, not an activity.

Complexification

Speaker Ryan recently said a goal of tax reform was “to simplify, simplify, simplify.”²⁸ The same should be true of TANF and welfare reform generally. The term “complexification” refers to the tendency to take what should be a simple concept and make it unnecessarily complicated, ineffective, and administratively burdensome.²⁹ TANF is a prime example of congressional complexification.

18. TANF’s Rube Goldberg-like funding rules.³⁰ Under TANF, states must consider the rules that apply to five types of funding streams (federal only, comingled, segregated MOE, MOE in a separate state program, and solely state funded programs). Then there are rules based on which purpose an activity meets, whether the expenditure is “assistance” or “non-assistance,” whether the recipient is in an “eligible family” or not, whether the expenditure is “authorized under prior law,” whether it is allowable under Healthy Marriage and Responsible Fatherhood Grants, which specific type of federal funding stream (e.g., block grant, Contingency Fund, Emergency Fund), and on and on. Solution: Keep it simple.

19. TANF’s work requirements are needlessly complicated.

- **The caseload reduction credit’s adjustment for eligibility changes from the base year is an exercise in bureaucracy and junk science.** Federal and state officials waste thousands of hours each year in a massive bureaucratic exercise deriving what in the end can only be considered “guesstimates.” During the waiver era before TANF, there were dozens of random assignment experiments to estimate the impacts of various eligibility changes. Why? Because rigorous evaluation is the only credible way to determine their effects, particularly when there are economic changes and other policy changes that could influence caseloads. But, for purposes of the caseload reduction credit, Congress expects state staff to estimate the effects of eligibility changes. Even seasoned evaluation experts would not be able to do this. This is particularly difficult when states have multiple changes over multiple years, all of which must be estimated for the

²⁸ 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>.

²⁹ Senator Moynihan used the term “complexifier” in a hearing once, referring to noted social scientist Richard Nathan. See Richard B. Nathan, “Complexifying” Performance Oversight in America’s Governments,” APPAM Presidential Address, October 29, 2004.

³⁰ For more detail on the complexification of funding rules, see Table III-3, “TANF’s Rube Goldberg Financing Requirements,” in 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: <http://mlwiseman.com/wp-content/uploads/2013/09/TANF-is-Broken.072515.pdf>.

comparison year of the work rate calculation. Solution: Keep it simple; select a target rate that is reasonable, predictable and constant.

- **Complexifying work requirements (the denominator).** In determining the number of families subject to work rates, states can disregard single-parent families that contain a child under age 1 but only for 12 months over the parent’s lifetime and families that have been subject for a work-related sanction for no more than 3 months in the preceding 12 months. Solution: Keep it simple; these disregards simply reduce the effective rate below 50 percent, so just set a lower rate to start with rather than micromanaging.
- **Complexifying work requirements (the numerator).** TANF imposes a number of limits on counting certain work activities. Vocational educational training can only be counted on behalf of an individual for 12 months over the individual’s lifetime. Job search and job readiness assistance can only count for 6 weeks in the preceding year, unless the state is a “needy state,” in which case it can be 12 weeks; in addition, the law limits the counting of this activity for a maximum of 4 consecutive weeks and on not more than one occasion per individual, the state shall consider the participation of the individual for 3 or 4 days during a week as a week of participation by the individual. No more than 30 percent of families that a state counts toward its work rates may be counted by virtue of participation in vocational educational training or, for parents under age 20, school attendance or education directly related to employment. The 30 percent cap applies to the numerator; if a state exceeds the cap, some cases are not counted and the numerator is reduced; this leads to an ongoing recalculation because each time the numerator is reduced, the number of cases that are allowed has to be recalculated because the 30 percent is applied to a lower base. While there is a mathematical formula for this recursive calculation, it is more complicated than it needs to be. Solution: Keep it simple; if you need a limit, make it a function of the denominator so you don’t have to engage in extensive tracking or confusing recalculations.

Time to Limit Ineffective and Counterproductive Federal Requirements

20. Despite the block grant structure, TANF is filled with examples of ineffective and burdensome congressional micromanagement. Some requirements, like the federal time limit and restrictions on EBT are both ineffective and counterproductive, as they are easily evaded, yet impose very real monitoring costs on states. Some requirements are just ineffective and needlessly complicate the program.

- **TANF’s 60-month federal time limit is bureaucratic and ineffective.** Federal TANF funds may not be used for a family with an adult who has received federally-funded assistance for 60 months. There are arguments for and against time limits, but the federal 60-month time limit is filled with loopholes that allow states to largely ignore it, except for the bureaucratic hoops that it imposes. First, the time limit only applies to families with an adult receiving federally-funded

assistance. Federal and state MOE funds are largely fungible, so if a state wants to exempt families from the federal 60-month time limit or extend their assistance, it can simply fund the families using MOE with segregated state funds or separate state programs. As noted above, switching from a federal-state matching program to a block grant with a separate MOE requirement allows states to do this. Second, TANF specifically allows states to extend assistance for up to 20 percent of the caseload by reason of “hardship,” with hardship defined by the states. And, the 20 percent calculation applies to the entire caseload, including child-only cases that are not even subject to time limit. (About half the national caseload has no adult receiving assistance, so the exemption is really about 40 percent for the share of the caseload that is subject to the federal time limit – with considerable variation across states.) Third, a state could just remove the adult from assistance benefit and pay benefits to just the children (and even increase the payments to the children to offset the reduction from removing the adult). For states that do not want a time limit, this just wastes resources by forcing them to take advantage of loopholes; yet, they still must track and report months of federally funded assistance. In addition to the federal time limit, many states have their own time limits that differ in the duration and exemption/extension criteria. These states now must monitor and enforce two different time limits. Solution: Keep it simple; require states to have a time limit, but allow each state to develop its own. Evaluate the effects of time limits before specifying any one particular limit in law.

- **TANF’s ban on EBT use at strip clubs, liquor stores, and casinos is ineffective and costly.** In 2012, Congress passed legislation requiring states to maintain policies and practices to prevent TANF assistance funds from being used in an EBT transaction in liquor stores, casinos, and strip clubs. This includes both purchases and cash withdrawals at ATMs in such establishments. While it is reasonable to expect that TANF funds be spent on basic needs items, this legislation is misguided. First, it was enacted based on anecdotal evidence without any real understanding of the size and scope of the problem. Based on the data reported in the press, the amount of such expenditures/withdrawals is small relative to the program’s total expenditures. Second, and more important, regardless of the size of the problem, this solution is totally ineffective and wastes tens of millions of dollars in monitoring and enforcement efforts (by states and the affected establishments). Why? Obviously, if someone wants to spend their TANF dollars at these establishments, the only thing this provision does is encourage them to go to an ATM at a bank or grocery store to withdraw the cash and then use it on the prohibited purposes. How has this accomplished anything? Congress should apply the principles of cost-benefit analysis when considering legislation. The ban on using EBT cards at strip clubs, casinos, and liquor stores would not pass such a test. Spending welfare dollars at such locations is troubling, but anyone inclined to misuse the money can simply go to an ATM in another location and then go and spend the cash as they wish. So, there is no “benefit.” But, the law imposes very real administrative costs on states in establishing and monitoring this restriction. Solution: Focus on TANF’s very real

problems – its failure as a safety net and a welfare-to-work program – not political grandstanding.

- **TANF’s limits on transfers of funds are ineffective and unnecessary.** Up to 30 percent of federal block grant funds can be transferred to the Child Care and Development Block Grant (CCDBG) and the Social Services Block Grant (SSBG), with a separate limit of 10 percent for the SSBG. These limits serve no practical purpose, as a state could spend its federal TANF money directly in exactly the same way as funds are spent in these block grants. Solution: Keep it simple; don’t impose requirements that have no practical significance.
- **TANF’s basic MOE requirement is a moving target, leading to needless uncertainty and retroactive adjustments.** Each fiscal year a state must spend 80 percent of what it spent in FY 1994, but this is lowered to 75 percent if it meets its work rate for the year. Since a state doesn’t know whether it met the work rate until about a year or more after the end of the fiscal year (when HHS publishes the work rates), this creates unnecessary uncertainty regarding the amount of spending needed and can lead to retroactive adjustments in financial data. Solution: Keep it simple; if there is a MOE requirement, pick one level.
- **TANF’s 24-month work requirement is no requirement at all.** The law states that all parents and caretakers receiving assistance after 24 months must engage in work activities. There is no penalty; there is no requirement. Solution: Keep it simple; don’t add provisions that have no practical significance.

Conclusion

Isn’t it obvious? We have to start over. In Speaker Ryan’s own words, “Those who protect the status quo must answer to the 46 million Americans living in poverty.”³¹

³¹ Paul Ryan, “The GOP Plan to Balance the Budget by 2023,” *The Wall Street Journal*, March 12, 2013, available at: <http://www.wsj.com/articles/SB10001424127887323826704578353902612840488>.