

TANF Work Requirements are NOT About Work: An Explanation for Katherine Bradley and Robert Rector

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In “Needed in Federal Welfare Programs: Work, Work, and More Work,” Katherine Bradley and Robert Rector of The Heritage Foundation argue that the 1996 welfare reform law, which created the Temporary Assistance for Needy Families (TANF) program, was a historic moment, “because for the first time in modern history, a social welfare program was reformed so that it would actually help recipients move up the economic ladder.”² In fact, they believe “the example of the TANF work requirement should be expanded and replicated throughout the federal welfare system, which now extends to over 80 other means-tested programs.”

Most conservatives still believe TANF is an “unprecedented success.” For the past two years, I have been writing papers as a citizen to highlight TANF’s many problems. My hope is that conservatives will adopt more “rigor” in their assessment of the 1996 law and use evidence rather than ideology in developing reform proposals. This response addresses a number of the claims made by Bradley and Rector about TANF’s work requirements, followed by a “PC Response.” (“PC” is short for “Peter the Citizen.”)

Bradley/Rector: “Last year marked the 20th anniversary of welfare reform, the Temporary Assistance for Needy Families (TANF) program. This law was historic because for the first time in modern history, a social welfare program was reformed so that it would actually help recipients move up the economic ladder.”

PC Response: The claim that TANF is “reform” and that it would “help recipients move up the economic ladder” is the conventional conservative wisdom, but it is wrong. If TANF is historic, it is because it is perhaps the most dysfunctional social “program” ever created. The word “program” is in quotation marks, because TANF is not a program in the conventional sense of the word, but is really just a form of revenue sharing. 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. 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 – something Bradley and Rector completely ignore. As described in more detail below, its work requirements are the epitome of dysfunctional conservatism.

The creation of TANF actually gutted the first real work requirements in a welfare program. The Family Support Act of 1988 for the first time required states to engage, by fiscal year (FY) 1995, 20 percent of their nonexempt caseloads in a work, education, or training activity for an average of 20 hours per week. This was a modest work requirement, but it was a much higher standard than most states have been expected to achieve under TANF. Not only did TANF’s caseload reduction credit drive the target work rate to 0 percent for 20 to 30 states throughout TANF’s

first 15 years, the law itself created numerous loopholes states could use to avoid work requirements. A partial checklist of how TANF gutted work requirements includes the caseload reduction credit and loopholes like separate state programs (now solely state funded programs), token payments to employed families with full-time workers but who otherwise have no connection to the cash assistance caseload, allowing waiver inconsistencies to carry over from the prior AFDC program, failing to actually define work activities, and excluding able-bodied non-recipient adults even when their children received aid.³ (For more detail, see the Appendix to this paper, “Work Requirement Loopholes Created by Conservatives.” It provides a brief summary of TANF’s main work requirement loopholes, all of which are the result of conservative policymaking.)

The most disappointing way some states have met work requirements is by slashing TANF caseloads even as the number of families with children in poverty has risen. For example, Texas (home to Ways and Means Chairman Kevin Brady) has about 10 percent of the nation’s poor families with children. In FY 2015, the state spent just 14 percent of its TANF/MOE funds on core welfare reform activities (i.e., basic assistance, work activities, and child care); and only 4 out of every 100 poor families with children in 2015 received cash assistance, down from 47 out of 100 when TANF was enacted.⁴ TANF’s work requirements are largely irrelevant when virtually no one receives cash assistance!

Texas is not alone – in FY 2015, an astounding 28 states spent less than 20 percent of their TANF-MOE funds on basic assistance.⁵ (There are no work requirements for the activities funded with the 80-plus percent of TANF dollars in these states.) In a dozen states, the TANF-to-poverty ratio is less than 10. To characterize TANF as “historic” because it would “actually help” needy families is not only misleading – it is wrong. Welfare reform should be about giving needy families a hand up, but instead, under TANF, it has abandoned them.

Bradley/Rector: “Its goal was not only to provide fiscal assistance, but also to help people find jobs and gain skills to increase their long-term employability.”

PC Response: It is surprising to see Bradley and Rector even acknowledge TANF’s role as providing assistance. TANF is a fixed block grant, one that is not adjusted for inflation or demographic changes, and it gives states excessive flexibility to divert funds to fill state budget holes or fund other activities that have no real connection to welfare reform. As a result, it no longer functions as a true safety net. Yet, in February 2010, when the national unemployment rate was 9.8 percent, Bradley and Rector made the incredulous claim that a temporary increase in funding for cash assistance would “undermine welfare reform”:

Congress is looking at opportunities to fulfill President Obama’s request to undermine welfare reform. Specifically, it is considering attaching the President’s request to extend and expand the Temporary Assistance for Needy Families (TANF) Emergency Fund to pieces of legislation currently moving through Congress. This anti-reform fund pays states “bonus” money for increasing the size of their welfare caseloads without any incentives to place people into jobs and off of the dole. If the TANF emergency fund is extended, the tremendous success of the 1996 welfare reform law will continue to be

undermined, and the federal government will return to the failed pre-reform policy of rewarding states for increasing welfare dependence.⁶

Between 1996 and 2010, the number of poor families with children rose from 6.4 million to 7.3 million; meanwhile the caseload fell from 4.4 million to 2 million.⁷ The share of families with incomes low enough to be eligible for TANF cash assistance *and* receiving it fell from nearly 80 percent to about 33 percent.⁸ And, as noted throughout this document, TANF's work requirements have failed to engage families in real activities that would help "increase their long-term employability." It is in this environment that Rector and Bradley objected to a modest proposal to strengthen TANF's safety net aspect, even as state politicians themselves had used tens of billions of dollars since TANF's inception to supplant and divert funds for non-welfare reform purposes. Where is the concern about the dependency of politicians on the TANF block grant? At the very least, the authors could have proposed limiting TANF to its core "welfare reform" activities – basic assistance and welfare-to-work activities – to end the slush fund nature of the "program."

Bradley/Rector: "Within 10 years of reform, TANF helped more than 2.7 million families to move into jobs and toward self-sufficiency. No other social welfare reform has seen this kind of success."

PC Response: This claim is typical of conservatives – to cite a large caseload decline as the primary measure of success and, if other measures also improved, to make a note of that. Indeed, their citation simply links to a source to document the caseload decline, not the claim that "millions of families" were moved into jobs. In TANF's early years, the employment rate of single mothers rose and child poverty declined, but these trends started well before TANF was enacted and would have continued even without it. This is because the economy was strong, there was a large expansion in aid to the working poor, and states had begun and could have continued welfare reform through waivers. The main thing TANF added to this is give most states a windfall of about 20 to 30 percent initially, because the block grant was based on spending levels when caseloads were at historic highs. And, many states did increase spending on child care and other work supports. If conservatives want to replicate what TANF did – then giving states more money is TANF's main contribution.

Leaving this aside, let's examine the Bradley/Rector claim more carefully. Between 1996 and 2007, the caseload fell 2.7 million families, from 4.4 million to 1.8 million.⁹ But was this really because more single mothers moved into jobs? The employment rate for single mothers did rise between 1996 and 2007 (though I would argue no thanks to TANF), from 63.5 percent to 70.0 percent, an increase of 6.5 percentage points.¹⁰ Even if one could attribute the increase to TANF's work requirements – that would only account for 700,000 families. What about the other 2 million that lost assistance and don't appear to be employed?¹¹

What if we picked a different endpoint? Comparing 1996 to 2010 (when Bradley and Rector objected so strongly to even a modest increase in funding for cash assistance) shows a caseload decline of 2.4 million (from 4.4 million to 2.0 million),¹² but an employment rate that is only marginally higher – 64.1 percent vs. 63.5 percent in 1996.¹³ This represents an increase of less than 100,000 more single mothers employed. Bradley and Rector should explain the caseload

decline in this context. Notably, the number of poor families with children rose from 6.4 million to 7.3 million.¹⁴ About the most that can be claimed for TANF is that it has dramatically reduced welfare caseloads, but it has not done so by providing a “hand up.” TANF is *not* a success – it is “Truly a National Failure” (TANF).

Bradley/Rector: “Over the years, the original work requirement embedded in TANF has been eroded. States have found loopholes and claim credit for placing people in jobs when all they have really done is game the system.”

PC Response: Over the years? TANF gutted the work requirements immediately, driving the target rate to 0 percent for 31 states by 2000. Only four states faced a target higher than the 20 percent required under AFDC. As noted above, throughout most of TANF’s history, 20 to 30 states had a 0 percent target. And, for the rest, the decision to count “unsubsidized employment” as an activity allowed most states to meet the work requirement without having to serve anyone in a real activity. The only reason one didn’t see all the other loopholes immediately was that the caseload reduction credit made them unnecessary.

Douglas Besharov and I noted many of TANF’s loopholes in a 2004 report for the American Enterprise Institute (AEI), called *Toughening TANF*, stating:

The complexity of TANF’s participation requirements stems largely from the politics of how the original law described participation requirements. The drafters wanted to show they were serious about reform, so they set a high putative requirement (eventually 50 percent). But they compromised on the real requirements through a slew of exclusions and exemptions that substantially watered down the 50 percent requirement (even before the impact of the caseload reduction credit).¹⁵

Conservatives tried to close some of these loopholes in the Deficit Reduction Act of 2005 (DRA) only to find that states would discover new ones.

Bradley/Rector: “Regulations during the Obama Administration shrank the work requirement by allowing states to receive credit for work simply by spending more of their own state dollars on social services. They also allow states to claim credit for efforts by nonprofits and other groups to aid the poor.”

PC Response: The regulation providing states a larger caseload reduction credit for spending above their basic maintenance-of-effort (MOE) level was introduced in the 1999 TANF final rule. Bradley and Rector cite the 2012 testimony of Grant Collins, who described the nature of this provision as follows:

However, states also found other creative ways to meet the Federal requirements. One way was a little-known provision from a 1999 Federal regulation which became known as “excess MOE” or Maintenance of Effort.¹⁶

President Clinton, not President Obama, is responsible for the “excess MOE” provision and the trend toward finding “excess MOE” started during the Bush Administration, as states sought new ways to meet TANF’s work requirements after the DRA closed several loopholes.

Likewise, the counting of third-party non-governmental expenditures as MOE was not an Obama regulation, as suggested by Bradley and Rector. It has been long-standing policy and was clarified during the Bush Administration in a policy announcement for states issued in 2004, “TANF-ACF-PA-2004-01 (Clarification that third party cash or in-kind may count toward a State’s or Territory’s TANF maintenance-of-effort (MOE) requirement).”¹⁷ Under this policy states are permitted to count the spending of third-party non-governmental sources toward their MOE requirement, essentially rewarding them for spending outside groups would have undertaken in the absence of TANF. These expenditures must meet a TANF purpose, but otherwise can count as a donation that is considered MOE. Common examples of third-party non-governmental expenditures that states have claimed as MOE include expenditures by food banks and Boys/Girls Clubs for TANF-eligible families.

The real problem with allowing states to count third-party non-governmental expenditures is not so much that it allows them to game the work rate – they can easily use a variety of other loopholes. The more serious problem is that some states count these expenditures as MOE for the sole purpose of reducing their own commitment to programs for low-income families. Claire Richie of the Georgia Budget and Policy Institute explains the problem in Georgia as follows:

A state can meet its TANF MOE with state funds or third-party funds each year in order to receive federal funds and to avoid financial penalties... Nearly half of Georgia’s TANF MOE (\$83.5 million) came from third-party funds in FFY 2011, an increase of 19.1 percent from FFY 2010.

Essentially, policymakers replaced state fund investment for TANF MOE with more private, third-party funds. However, these private funds may count existing services already offered by private organizations across the state. Counting private funds for existing services in the community, while cutting state funds to TANF is an overall net cut to services for low-income Georgians.¹⁸

By FY 2014, the amount of third-party, non-governmental funds rose to \$99 million or 57 percent of the state’s MOE contribution.¹⁹ Apparently, the collapse of the cash assistance safety net in Georgia is not something state politicians are concerned about. Between 1996 and 2014, the number of poor families with children in Georgia rose from 161,500 to 257,800, while its AFDC/TANF caseload dropped from 131,900 to 16,000. Its TANF-to-poverty ratio fell from 82 to 6.²⁰

For some inexplicable reason, this policy has been allowed to continue. In 2016, the House Ways and Means Committee introduced the “TANF Accountability and Integrity Improvement Act,” which would have prohibited this practice. As I noted in an earlier paper, “*Profiles in (Dis)courage(ment)*,” Congress lacked the courage to act.²¹ Apparently the Committee members caved to one of its members, who made the incredulous argument that this somehow promotes civil society and collaboration with non-profit organizations. Prohibiting this practice would not

prevent such collaborations – it would simply require the state to pay its own way and actually serve more poor families.

Blaming President Obama for TANF’s problems is a common conservative tactic, but the real source of TANF’s dysfunctional work requirements is the block grant, the excessive state flexibility, and faulty work requirement provisions.

Bradley/Rector: “Furthermore, the Obama Administration sought in effect to eliminate the work requirement by allowing states a waiver if they had an ‘alternative’ plan to promote work and job preparation.”

PC Response: On July 12, 2012, Bradley and Rector first alerted the nation to the Obama Administration’s putative plan to “gut” work requirements:

Today, the Obama Department of Health and Human Services (HHS) released an official policy directive rewriting the welfare reform law of 1996. The new policy guts the federal work requirements that were the foundation of the reform law. ... The result is the end of welfare reform.²²

This assertion is like “the pot calling the kettle black.” In an interview, Rector admits to being the primary author of TANF’s work requirements: “I happen to have written most of these requirements. What the Obama administration has done is taken these and said (tears a sheet of paper). ‘They are gone! They are out of the picture.’”²³ Even a cursory examination of TANF’s work requirements shows that most states were already taking advantage of loopholes conservatives themselves created. It’s long past time to tear up TANF’s failed work requirement structure and start over.

Whatever one thinks about the waiver proposal, any “gutting” through waivers would have paled in comparison to the loopholes states were already using under TANF. Only one state applied for waivers (Ohio) and none received them. Governor Kasich was instrumental in passing the 1996 law and apparently now thinks its work requirements aren’t effective. In fact, states don’t really need waivers to change their programs – they can game them in a variety of ways to meet the rate and enact virtually anything they would want to do with waivers anyway. (As a side note, I do not support the 2012 waiver proposal, but not because it would “gut” work requirements, but rather because it would do nothing to address TANF’s very real structural problems.)

Bradley/Rector: “By using multiple loopholes, states have artificially inflated their work rates, which explains recent gains in the work rate.”

PC Response: The Heritage Foundation has been very slow to recognize the gaming and even when faced with the reality continue to claim TANF’s work requirements are a success. I have been writing about loopholes and gimmicks for 15 years. In 2004, Douglas Besharov and I warned that “the structure of the TANF block grant would enable states to avoid *all* additional participation requirements...”²⁴ In my July 2015 paper, *TANF is Broken!*²⁵ I described a framework for eliminating most loopholes and establishing meaningful work requirements for

TANF and SNAP – requirements that are realistic, reasonable, and designed to actually help needy families, not just push them off the rolls as TANF has done. If Bradley and Rector want to end loopholes, the first step would be to end the block grant structure; the second would be to limit spending to basic assistance and work activities – nothing else; and the third would be to focus on requirements that are reasonable and reflect operational realities.

Bradley/Rector: “In the typical state, nearly half of the work-eligible TANF caseload is completely idle. Another 39 percent is employed; however, this employment is generally not the result of positive efforts by state welfare agencies to reduce dependence and promote work.

PC Response: In TANF, there is no such thing as a “typical state.” States vary greatly in the degree to which they serve needy families, their approach to work requirements, and a host of other factors. The 48.3 percent of work-eligible individuals without reported hours of participation is a national average. Table 1 below shows how this percentage varied between 2000 and 2015. Bradley and Rector argue that TANF’s work requirements have eroded over time. Based on this metric, however, there is no evidence of erosion. Indeed, the number of work-eligible individuals with zero hours seems to have declined.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
% w/0 hrs.	60.3	56.8	58.3	58.8	57.5	56.6	55.3	62.1	60.5	58.2	59.0	58.0	55.1	56.7	54.7	48.3

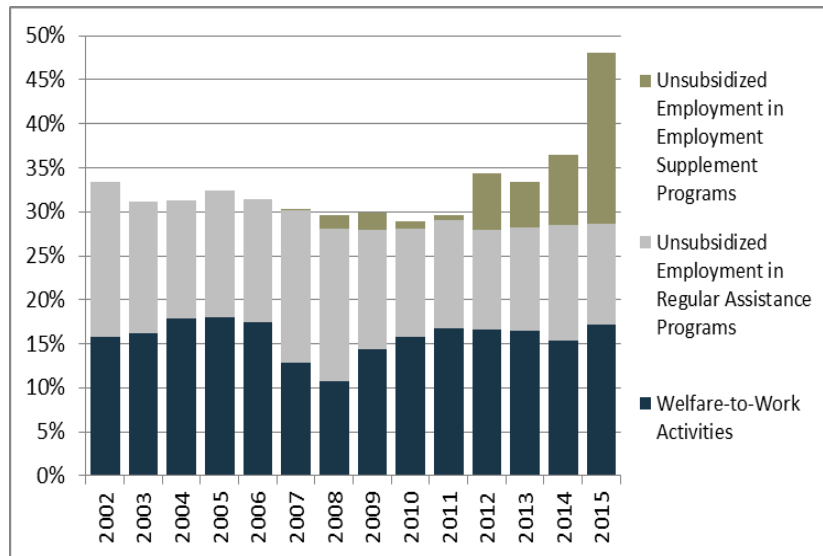
The suggestion that those with zero hours are “completely idle,” however is wrong. The hours of participation were limited to activities that are countable under TANF’s work requirements, so they do not include hours spent in activities that cannot be counted or that have limits on how many hours can be counted, most notably in educational and training activities. They also do not include hours that have not been verified, hours that exceeded statutory time limits, or hours that states simply chose not to report. In particular, the 1996 law placed durational limits on counting job search and job readiness assistance and vocational educational training. Some individuals have exceeded these limits, but have continued to participate in these activities. However, states cannot count such hours toward their participation rates. These limits also discourage states from reporting such hours even when they can be counted. For example, vocational educational training can only be counted by a state for 12 months over an individual’s lifetime. If a state can satisfy the work requirement without counting individuals in this activity, the incentive is not to include their hours of participation – instead, the incentive is to save those hours for the future, as they may be needed to meet a future work participation rate.

In addition, many individuals may also have legitimate reasons for not participating. Common reasons that a work-eligible individual has zero hours include he or she is: subject to a sanction or in the process of being sanctioned; the second parent in a two-parent family in which the other parent is participating in TANF’s activities; ill or temporarily disabled; in the first month of assistance and no activity has been assigned or has been assigned to an activity that has not yet begun; the parent of a child under 6 and no child care is available; or a number of other factors. The reasons for zero hours was discussed at great length in an HHS report, *Claims Resolution Act - Engagement in Additional Work Activities and Expenditures for Other Benefits and*

Services, April-June 2011 – any discussion of this subject should at least address some of these factors.²⁶

Bradley/Rector: “Instead, most states have simply expanded program eligibility to allow families with part-time or low-wage employment to receive partial TANF benefits. In most cases, the state welfare agency has done little or nothing to prompt this employment.”

PC Response: “Unsubsidized employment” should never have been made an “activity”; the goal should be to engage families that don’t work or can’t work. Since TANF’s inception, over half of the hours of activity reported by states have been in this “activity”; states have typically had a work rate of about 15 percent in real work activities. The figure below, produced by Gene Falk of the Congressional Research Service, shows the national average TANF work participation rate from 2002 to 2015.²⁷ It divides the rate into three components: welfare-to-work activities (e.g., job search and job readiness assistance, work experience, community service, and vocational educational training), unsubsidized employment, and “unsubsidized employment in employment supplement programs.”



What should be immediately obvious is that TANF has never been particularly successful in engaging families in real “welfare to-work activities,” with only about 15 percent of those required to participate in an activity. Another 15 percent have typically been in unsubsidized employment, combining work and welfare. The growth in token payments began in 2007, an unintended response to the DRA.

Even this understates the problem, because it does not reflect the dramatic increase in the number of families eligible for TANF that no longer receive it. While about 15 percent of those required to participate are in real work activities, this represents just 2 percent of all poor families with children. There are many needy families that could benefit from welfare-to-work programs, but TANF is not reaching them.

Bradley/Rector: “Finally, 13 percent of work-eligible TANF recipients are engaged in “work activation” to generate future employment. This includes training, job preparation, community service, and monitored job search. Work activation should be the core TANF operation, but in most states, it is rare.”

PC Response: If this is their concern, this has been a problem from the beginning.

Bradley/Rector: “Even worse, states have proven adept at creating statistical gimmicks to create the false impression that they are aggressively promoting work. For example, in 2015, California created a new policy offering a token TANF payment of \$10 per month to 175,000 low-income families, nearly all of whom were already employed. The addition of these token payment families to the California TANF rolls caused the state’s TANF ‘work participation rate’ to nearly double between 2014 and 2015.

The surge in ‘work’ in California was so large that it raised the national work participation figures for 2015 shown in the accompanying chart. An estimated 11 more states also use token payment schemes to game the system and manipulate their apparent TANF work rates. If the misleading data from these states are removed, the actual national TANF work participation rate in 2015 (shown in the chart) falls from 48 percent to around 29 percent.

It is clear that states are doing the bare minimum to engage able-bodied adults in finding employment. This is a far cry from the initial reaction states had to the new TANF law in 1996. At first, they stepped up to the plate and met the challenge by turning social workers into job-assistance managers. They found employers in their states and contracted with them to provide skill-training and employment opportunities. They also contracted with well-respected nonprofit entities, such as the Salvation Army, to help find jobs for their able-bodied beneficiaries, including those with mild disabilities.”

PC Response: Bradley and Rector exaggerate the extent to which states “stepped up to the plate” even in the beginning. Throughout TANF’s history, states have achieved a work participation rate of about 30 percent. As shown in Table 2, the “official” TANF work rate was on the high end of this average in 2000/2001 and again in 2014/15. These anomalies are due to gimmicks – the continuation of section 1115 waivers and separate state programs in the early years, and the token payment and solely state funded programs in the later years. Subtract “unsubsidized employment” as an activity and we’re back down to a work rate of about 15 percent – from the beginning.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Official	34.0	34.4	33.4	31.3	31.2	33.0	32.5	29.7	29.4	29.4	29.0	29.5	34.4	33.5	36.6	48.4
W/o waiver	29.7	29.9	28.9	27.5	29.4	30.3	30.6	-	-	-	-	-	-	-	-	-

Bradley/Rector: “It is time to right this ship and correct its course. Any TANF reauthorization should close the loopholes in the work requirement, rescind the Obama-era antiwork provisions, and put stronger work requirements in place requiring nearly all able-bodied adults to perform at least some kind of work or job-preparation activity.”

PC Response: TANF’s requirements are “weak” with respect to holding states accountable for engaging needy families in work activities, “punitive” in terms of their treatment of *many* needy families, and largely “ineffective” as a tool for promoting work. If one is serious about reforming TANF’s work requirements, it is time to quit blaming President Obama – his waiver proposal was never acted on and all the gaming going on is because of misguided conservative policies. As long as TANF is a block grant with excessive state flexibility, the work rate will remain a meaningless measure of state performance. Conservatives like to say it’s time to “close the loopholes,” but have yet to advance a plan to do this, much less one that would actually help families by providing a “hand up.” I am the only conservative to even propose a framework for doing this – the “Simple Welfare Employment Education and Training” (SWEET) program:

- “A SWEET Alternative” in *TANF is Broken! It’s Time to Reform “Welfare Reform” (And Fix the Problems, Not Treat their Symptoms)*, July 25, 2015, available [here](#) .

Bradley/Rector: “Further, the example of the TANF work requirement should be expanded and replicated throughout the federal welfare system, which now extends to over 80 other means-tested programs. Their goals should not simply be to provide some kind of temporary aid, such as food stamps, but rather to help individuals and families move toward economic freedom and employment.”

PC Response: If TANF is an “example,” it is of how NOT to reform work requirements. TANF’s work requirements are a travesty. It is hard to believe Bradley and Rector would hold them out as a model, even as they themselves acknowledge many weaknesses and what they believe to be “erosion.” (They were flawed from the start.)

Even then, the TANF experience can’t be generalized to other programs like SNAP. First, the programmatic structure of the programs is very different. TANF gives states enormous flexibility to design cash assistance programs and work requirements – including the flexibility to game the work requirements. In contrast, SNAP has uniform eligibility rules and benefit levels and many of the gimmicks states use to meet TANF’s work requirements would not be possible under SNAP. Second, the funding structure is very different. TANF is a fixed block grant, whereas SNAP benefits are fully funded by the federal government. TANF is not responsive to changes in economic and demographic circumstances, whereas SNAP is. Bradley and Rector should address how work programs would be funded in all of the programs they want to extend them to. Third, TANF primarily serves very poor single mothers, whereas SNAP has a much more diverse population, in terms of its demographic characteristics and economic circumstances. It would be inappropriate to generalize from TANF to populations like two-parent families, individuals, childless couples, and single mothers not receiving TANF benefits.

Conclusion

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.

Appendix: Work Requirement Loopholes Created by Conservatives

The following is a brief summary of *some* of TANF's work requirement loopholes, all of which are the result of conservative policymaking; they are described in more detail in "TANF Work Requirements: An Epic Fail," in *TANF is Broken!* Some of the loopholes have been closed, but they are listed here to emphasize the importance of paying attention to policy details and the need to anticipate unintended consequences.

- **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: Eliminate the caseload reduction credit; 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 loophole illustrates the need for care in drafting legislation in the first place – "words" matter.
- **Excess MOE provision of the caseload reduction credit.** 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 basic 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.

A May 2012 report by the Government Accountability Office (GAO), explained the growing significance of this provision:

MOE is now playing an expanded role in TANF programs, as many states' excess MOE spending has helped them meet work participation rates. While one state had used MOE expenditures toward its caseload reduction credit before fiscal year 2007, over half of the states (27) relied on these expenditures to increase their credits and help them meet their required work participation rates in one or more years between fiscal years 2007 and 2009.²⁸

It further noted:

In fiscal year 2009, 32 of the 45 states that met their required work participation rates for all TANF families claimed excess state MOE spending toward their caseload reduction credits. Sixteen of these states would not have met their rates without claiming these expenditures.²⁹

Conservatives will point out that this is a regulatory provision first put in place by the Clinton Administration in 1999 (although Bradley and Rector blame President Obama). This is true, but the very concept of “excess MOE” is a direct result of TANF’s block grant structure – it did not exist in a federal-state matching program. And, closing this loophole is easy – change the regulations. The problem is that as long as there is “excess MOE,” it is just as easy for states to use that for solely state funded programs to remove families from the denominator of the work rate. 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 by failing to include families receiving assistance with “qualifying state expenditures” or it intentionally created a massive loophole. By FY 2005, over half the states had such programs and their primary purpose was to remove 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 loophole illustrates the need for care in drafting legislation in the first place – “words” matter.
- **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.

The Center for Public Policy Priorities describes this approach for meeting work rates as the “take-out strategy”:

Under this approach, states divide TANF recipients into two categories: those likely to meet federal work requirements and those unlikely to meet the requirements. States then provide assistance to those recipients unlikely to meet the requirements with non-MOE state funds.³⁰

In a summary of solely state funded programs in the immediate aftermath of the Deficit Reduction Act of 2005 (i.e., during the Bush Administration), Liz Schott and Sharon Parrott also described how this funding approach can work without the need for additional state funds:

The state funding for benefits and administration of a solely state-funded program, by definition, does not count toward the state’s maintenance-of-effort requirement. This does not mean, however, that additional state spending is required for a state to implement such an approach. SSFs typically serve families that otherwise would be served in the state’s TANF- and MOE-funded programs, so establishing the SSF does not increase overall state assistance costs. If a state does not want to increase state expenditures, it can “swap” funding by identifying current state expenditures that it could count (but has not counted in the past) toward the TANF maintenance-of-effort requirement to allow the state to fund the SSF program with state funds that do not need to be claimed toward the MOE requirement. It also could do a similar swap with TANF funds.³¹

In a 2008 survey, Mathematica found that 26 states had adopted solely state funded programs, 24 of which used them to serve two-parent families, 14 to serve hard-to-employ families, and 7 to serve families in college.³² (The number of states with such programs probably would have been larger, but in FY 2008 over 20 states had a 0 percent target rate due to the caseload reduction credit.) The survey also indicated, “In a few instances, SSF programs are explicitly targeted to families that are not meeting their work participation requirement.”³³ LaDonna Pavetti, Linda Rosenberg, and Michelle Derr of Mathematica described how this works in the District of Columbia:

The District of Columbia caseload provides an illustration of the importance of considering participation in TANF and SSF programs to accurately track the number of families receiving cash assistance. According to the data reported by HHS, between FY 2005 and 2008 the District's TANF/SSF caseload declined by 69 percent, from 17,254 to 5,375 cases. Data maintained by the District on all of its cases show a decline of just 12 percent, to 15,171 cases in FY 2008. The District employs a systematic strategy for assessing their caseload and assigning cases to different funding groups depending on their characteristics and their level of participation in work activities. This means that the number of families on the TANF/SSF caseload is dependent on the number of families meeting the work requirement in any given month, not on the number of families receiving assistance. While the federal TANF/SSF data show the District's caseload declining between FY 2007 and 2008, the local data show the caseload starting to increase.³⁴

Illinois is another state that makes extensive use of solely state funded programs. In fact, in FY 2014, the number of such cases outnumbered the actual number of TANF cases (an average monthly caseload of 24,349 in solely state funded programs vs. 20,050 in TANF).³⁵ And, this isn't a recent phenomenon. Several of the programs were created effective October 1, 2006, including: "Two-Parent Families Paid with State Only Funds," "First Time Pregnant Women Paid with State Only Funds," "Refugee Cases Paid with State Only Funds," and "Child Under One cases Paid with State Only Funds." Then, in FY 2012, the state implemented another solely state funded program aptly called "Single Parent Cases Not in A Countable Activity Paid with State Only Funds."

Over time, the number of states with solely state funded programs and the number of families in such programs has grown.³⁶ The use of this "loophole" is likely to grow, as work participation rate targets have increased in many states since FY 2011 and the "excess MOE" provision of the caseload reduction credit has become less generous.³⁷ 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. For example, in 2011, Governor Kasich of Ohio submitted a corrective compliance plan to address three years of failing to meet work rates (2007 to 2009 – before he became governor)³⁸ in an attempt to avoid about \$135 million in penalties. The central element of the corrective compliance plan had nothing to do with engaging more families in work activities. Instead, the plan would make \$10 payments to SNAP participants who have a child and have enough work hours to be counted toward the TANF work rate.³⁹ Here is how officials at the Ohio Department of Jobs and Family Services (ODJFS) describe the action:

ODJFS also initiated the Ohio Works Now Program, which provided a \$10 monthly OWF benefit to families on the Food Assistance Program who were working. By receiving this benefit, these working families could be counted toward the state's TANF work participation rate. This program was only in effect from January to June 2012. About 72,323 assistance groups received benefits on average each month. Benefits totaled \$4.3 million and were paid from TANF funds.⁴⁰

So, by investing \$4.3 million in what is really a gimmick, the state gutted the work requirement in FY 2012 and in doing so not only met the overall rate for that year, but potentially reduced a significant share of penalties from prior years.⁴¹ This did virtually nothing to help low-income families get jobs and wasted federal and state staff time dealing with a gimmick.

In FY 2015, these cases account for over 15 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 conservatives 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.

Taking advantage of multiple loopholes. In FY 2012, Michigan achieved an overall work participation rate of 43.1 percent, exceeding its target rate of 37.5 percent (the 50 percent statutory rate reduced by a 12.5 percentage point caseload reduction credit). But, Michigan was only able to meet TANF’s work rate and avoid potential federal penalties by taking advantage of a number of loopholes. Specifically, it artificially reduced its denominator by moving nearly one-quarter of its caseload (cases that don’t help it meet the rate) to a solely state funded program not subject to TANF’s work requirements (including all of its two-parent families so it is not subject to the two-parent rate at all), artificially inflated its numerator by providing token benefits of \$10 to families that would otherwise have left the rolls, and artificially inflated its caseload reduction credit by hiring a consultant to find more maintenance-of-effort (MOE) funds the state could count and thus lowered its target rate by taking advantage of the “excess MOE” provision of the caseload reduction credit. It also cut its caseload sharply by adopting stricter time limits, so it had fewer cases to deal with. It would be one thing if the state had invested in programs to help recipients make the transition to self-sufficiency, but in FY 2012 Michigan just spent 5 percent of its TANF/MOE dollars on work activities.⁴² Nevertheless, The Heritage Foundation considers this a big success.⁴³

Bottom-line. These are just some of the loopholes conservatives created – states have been using them for two decades. Instead of worrying about President Obama and “waivers,” Bradley and Rector should be advancing recommendations to fix the mess conservatives themselves have made.

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

² Katherine Bradley and Robert Rector, "Needed in Federal Welfare Programs: Work, Work, and More Work," July 20, 2017, available at: <http://www.heritage.org/culture/needed-federal-welfare-programs-work-work-and-more-work>.

³ The waiver inconsistencies loophole expired and Congress required the U.S. Department of Health and Human Services to define work activities and who is required to participate in work activities in the Deficit Reduction Act of 2005, thus closing some of the loopholes, but others have become more prominent.

⁴ Center on Budget and Policy Priorities, "State Fact Sheets: How States Have Spent Funds Under the TANF Block Grant," January 5, 2016, available at: <http://www.cbpp.org/research/family-income-support/state-fact-sheets-how-states-have-spent-funds-under-the-tanf-block>. Center on Budget and Policies Priorities, "Texas' TANF Cash Assistance Is Disappearing for Poor Families," available at: https://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_tx.pdf.

⁵ Center on Budget and Policy Priorities, "State Fact Sheets: How States Have Spent Funds Under the TANF Block Grant," January 5, 2016, available at: <http://www.cbpp.org/research/family-income-support/state-fact-sheets-how-states-have-spent-funds-under-the-tanf-block>.

⁶ Katherine Bradley and Robert Rector, "How President Obama's Budget Will Demolish Welfare Reform," February 5, 2010, available at: <http://www.heritage.org/welfare/report/how-president-obamas-budget-will-demolish-welfare-reform>.

⁷ Ife Floyd, LaDonna Pavetti, and Liz Schott, "TANF Reaching Few Poor Families," Center on Budget and Policy Priorities, March 30, 2017, available at: <https://www.cbpp.org/research/family-income-support/tanf-reaching-few-poor-families>.

⁸ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Welfare Indicators and Risk Factors: Fourteenth Report to Congress*, September 22, 2015.

⁹ Ife Floyd, LaDonna Pavetti, and Liz Schott, "TANF Reaching Few Poor Families," Center on Budget and Policy Priorities, March 30, 2017, available at: <https://www.cbpp.org/research/family-income-support/tanf-reaching-few-poor-families>.

¹⁰ Thomas Gabe, "Welfare, Work, and Poverty Status of Female-Headed Families with Children: 1987-2013," Congressional Research Service, November 21, 2014, available at: <https://www.fas.org/sgp/crs/misc/R41917.pdf>.

¹¹ The caseload and employment statistics are for a point in time to simplify the explanation.

¹² Ife Floyd, LaDonna Pavetti, and Liz Schott, "TANF Reaching Few Poor Families," Center on Budget and Policy Priorities, March 30, 2017, available at: <https://www.cbpp.org/research/family-income-support/tanf-reaching-few-poor-families>.

¹³ Thomas Gabe, "Welfare, Work, and Poverty Status of Female-Headed Families with Children: 1987-2013," Congressional Research Service, November 21, 2014, available at: <https://www.fas.org/sgp/crs/misc/R41917.pdf>.

¹⁴ Ife Floyd, LaDonna Pavetti, and Liz Schott, "TANF Reaching Few Poor Families," Center on Budget and Policy Priorities, March 30, 2017, available at: <https://www.cbpp.org/research/family-income-support/tanf-reaching-few-poor-families>.

¹⁵ Douglas J. Besharov and Peter Germanis, "Toughening TANF," American Enterprise Institute, April 21, 2004, available at: <https://www.aei.org/publication/toughening-tanf> and Douglas J. Besharov and Peter Germanis, "Toughening TANF: How Much? And How Attainable?," March 23, 2004, available at: http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf.

¹⁶ Grant Collins, Senior Vice President, ResCare Workforce Services, testimony in hearing, State TANF Spending and Its Impact on Work Requirements, Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, 112th Cong., 2nd Sess., May 17, 2012, http://waysandmeans.house.gov/UploadedFiles/Grant_Collins_Testimony_watermark.pdf.

¹⁷ U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, "TANF-ACF-PA-2004-01 (Clarification that third party cash or in-kind may count toward a State's or

-
- Territory's TANF maintenance-of-effort (MOE) requirement),” TANF-ACF-PA-2004-01, December 1, 2004, available at: <https://www.acf.hhs.gov/ofa/resource/policy/pa-ofa/2004/pa200401htm>.
- ¹⁸ Claire S. Richie, “Georgia TANF Funds Sink to New Low Majority Still Spent on Indirect Purpose,” September 2012.
- ¹⁹ Center on Budget and Policy Priorities, “Georgia: TANF Spending Fact Sheet,” available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_ga.pdf.
- ²⁰ Center on Budget and Policy Priorities, “Georgia: TANF Caseload and TANF-to-Poverty Ratio Fact Sheet,” available at: http://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_ga.pdf.
- ²¹ Peter Germanis, “Profiles in (Dis)courage(ment),” May 15, 2016, available at: <http://mlwiseman.com/wp-content/uploads/2016/05/Profiles-in-Courage.052216.pdf>.
- ²² Robert Rector and Kiki Bradley, “Obama Guts Welfare Reform,” July 12, 2012, available at: <http://dailysignal.com/2012/07/12/obama-guts-welfare-reform/>.
- ²³ See transcript of the Rush Limbaugh show, August 10, 2012, available at: http://www.rushlimbaugh.com/daily/2012/08/10/rector_and_trumka_makers_vs_takers.
- ²⁴ Douglas J. Besharov and Peter Germanis, “Toughening TANF,” American Enterprise Institute, April 21, 2004, available at: <https://www.aei.org/publication/toughening-tanf> and Douglas J. Besharov and Peter Germanis, “Toughening TANF: How Much? And How Attainable?,” March 23, 2004, available at: http://www.welfareacademy.org/pubs/welfare/toughening_tanf.pdf.
- ²⁵ 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>.
- ²⁶ U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *Claims Resolution Act - Engagement in Additional Work Activities and Expenditures for Other Benefits and Services, April-June 2011: Engagement in Additional Work Activities and Expenditures for Other Benefits and Services*, February 13, 2012, available at: <http://www.acf.hhs.gov/ofa/resource/cra-june2011html>.
- ²⁷ Gene Falk, “Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities,” Congressional Research Service, February 1, 2017, p. 10, available at: http://www.aphsa.org/content/dam/NASTA/PDF/CRS-RPT_R44751_2017-02-01.pdf.
- ²⁸ U.S. Government Accountability Office, *Temporary Assistance for Needy Families: State Maintenance of Effort Requirements and Trends* (Washington, DC: GAO, May 17, 2012, p. 15, available at: <http://www.gao.gov/assets/600/590958.pdf>).
- ²⁹ U.S. Government Accountability Office, *Temporary Assistance for Needy Families: State Maintenance of Effort Requirements and Trends* (Washington, DC: GAO, May 17, 2012, p. 15, available at: <http://www.gao.gov/assets/600/590958.pdf>).
- ³⁰ Center for Public Policy Priorities, “A New Welfare-to-Work Approach for Texas,” February 2007, available at: http://www.workingpoorfamilies.org/pdfs/TANF_reform_80th.pdf.
- ³¹ Liz Schott and Sharon Parrott, “Designing Solely State-Funded Programs: Implementation Guide for One ‘Win-Win’ Solution for Families and States,” Center on Budget and Policy Priorities, January 8, 2009, p. 5, available at: <http://www.cbpp.org/sites/default/files/atoms/files/12-7-06tanf.pdf>. An earlier version of this paper was published on July 16, 2007, and even this appears to be an update of an earlier paper, well before the final rule implementing the DRA was published.
- ³² LaDonna Pavetti, Linda Rosenberg, and Michelle K. Derr, Understanding Temporary Assistance for Needy Families Caseloads After Passage of the Deficit Reduction Act of 2005 (Washington, DC: Mathematica, September 21, 2009), pp. 7-8, available at: http://www.mathematica-mpr.com/~media/publications/PDFs/family_support/TANF_caseloads.pdf.
- ³³ LaDonna Pavetti, Linda Rosenberg, and Michelle K. Derr, Understanding Temporary Assistance for Needy Families Caseloads After Passage of the Deficit Reduction Act of 2005 (Washington, DC: Mathematica, September 21, 2009), p. 7, available at: http://www.mathematica-mpr.com/~media/publications/PDFs/family_support/TANF_caseloads.pdf.
- ³⁴ LaDonna Pavetti, Linda Rosenberg, and Michelle K. Derr, Understanding Temporary Assistance for Needy Families Caseloads After Passage of the Deficit Reduction Act of 2005 (Washington, DC: Mathematica, September 21, 2009), p. 10, available at: http://www.mathematica-mpr.com/~media/publications/PDFs/family_support/TANF_caseloads.pdf.
- ³⁵ Illinois Department of Human Services, “TANF Caseload Reduction Credit Report FY 2015,” December 2, 2014, available at: <https://www.dhs.state.il.us/page.aspx?item=41152>.

³⁶ There is no single source for information about solely state funded programs, as they are not subject to TANF data reporting requirements; this conclusion is based on my own informal search about such programs and the numbers of families in them.

³⁷ Normally, the comparison year for the caseload reduction credit is the previous fiscal year (e.g., FY 2010 for the FY 2011 work rate's caseload reduction credit), but the American Recovery and Reinvestment Act of 2009 (ARRA) allowed a state the option of using FY 2007 or FY 2008 as the comparison year for rates in FY 2009, FY 2010, and FY 2011 if it was advantageous to the state. This hold-harmless provision was intended to prevent required state participation standards from rising if state caseloads rose as a result of the economic recession. The final rule implementing the Deficit Reduction Act of 2005, promulgated in February 2008, set forth a specific methodology effective FY 2009 for calculating the effect of "excess MOE" on the caseload reduction credit. The new approach essentially limited the amount of "excess MOE" that could be used by excluding cases to the share of a state's total TANF/MOE spending devoted to assistance. Nationally, states spent about one-third of their TANF/MOE funds on assistance; therefore, effective FY 2009, the amount of "excess MOE" that could be used in the caseload reduction credit calculation decreased by about two-thirds nationally. (It would be more today, as spending on assistance continues to decline.) While the exact impact would vary considerably by state, many states found it advantageous to make use of the ARRA hold-harmless provision, both because caseloads in many states were lower in FY 2007 and FY 2008 and because the treatment of "excess MOE" was more generous. So, for FY 2012, the caseload reduction credit, which includes caseload adjustments due to excess MOE spending, reduced the overall rate requirement below the 50 percent statutory standard for all but ten states. However, following the expiration of the ARRA hold-harmless provision, instead of there being 22 states with caseload reduction credits large enough to reduce their overall target rates to zero (as was the case for FY 2011), only 4 states had a target rate of zero in FY 2012.

³⁸ Ohio failed the overall work rate in FY 2010 and FY 2011 and the two-parent rate in FY 2012.

³⁹ See: John Kasich, Executive Order 2011-19K, <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/2011-19K.pdf>.

⁴⁰ Thomas A. Celmar and Justin Pinsker, *Legislative Service Commission: Analysis of the Executive Budget Proposal*, February 2013, p. 18, available at: <http://www.lsc.state.oh.us/fiscal/redbooks130/jfs.pdf>.

⁴¹ The state met the overall work rate for 2012, but failed to meet the two-parent work rate, despite the use of this gimmick. See HHS table 1A at: http://www.acf.hhs.gov/sites/default/files/ofa/wpr2012_final.pdf.

⁴² Administration for Children and Families, Office of Family Assistance, TANF Financial Data – FY 2014," July 7, 2015 available at: <http://www.acf.hhs.gov/programs/ofa/resource/tanf-financial-data-fy-2014>.

⁴³ Sara Jones, "How Michigan's Welfare Population Declined by 70% in 4 Years," *The Daily Signal*, November 17, 2015, available at: <http://dailysignal.com/2015/11/17/how-michigans-welfare-population-declined-by-70-in-4-years/>.