

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE OFFICE OF FAMILY ASSISTANCE OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES RELATING TO WAIVER AND EXPENDITURE AUTHORITY UNDER SECTION 1115 OF THE SOCIAL SECURITY ACT (42 U.S.C. 1315) WITH RESPECT TO THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM

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SEPTEMBER 18, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. KLINE, from the Committee on Education and the Workforce, submitted the following

## R E P O R T

together with

## MINORITY VIEWS

[To accompany H.J. Res. 118]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the joint resolution (H.J. Res. 118) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

### PURPOSE

House Joint Resolution 118, as ordered reported by the Committee on Education and the Workforce and the Committee on Ways and Means on September 13, 2012, expresses congressional disapproval of the July 2012 U.S. Department of Health and Human Services (HHS) rule proposing to allow states to waive

work requirements under the Temporary Assistance for Needy Families (TANF) program. The resolution, authorized under the Congressional Review Act (CRA), states that Congress disapproves of the rule and that the rule “shall have no force or effect.”

#### COMMITTEE ACTION

The Committee on Education and the Workforce strongly supports maintaining and strengthening the 1996 welfare reform law, which has been successful in moving millions of low-income families off of government dependence and into work. The congressional resolution of disapproval is necessary to rein in the Obama administration’s abuse of power and protect reforms that have effectively served millions of needy families.

#### *110th Congress*

The committee did not consider changes to the work requirements authorized under the Temporary Assistance for Needy Families Program.

#### *111th Congress*

The committee did not consider changes to the work requirements authorized under the Temporary Assistance for Needy Families Program.

#### *112th Congress*

On September 11, 2012, Reps. John Kline (R–MN), Dave Camp (R–MI), and Jim Jordan (R–OH) introduced House Joint Resolution 118, to provide for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families Program.

On September 13, 2012, the Committee on Education and the Workforce considered H.J. Res. 118 in legislative session and reported the resolution favorably by a vote of 22 to 16.

#### SUMMARY

House Joint Resolution 118, a joint resolution under the Congressional Review Act disapproving of the July 12, 2012 Temporary Assistance for Needy Families Information Memorandum (Transmittal No. TANF–ACF–IM–2012–03),

- expresses Congress’s disapproval of the Obama administration’s regulatory effort to weaken welfare reform;
- prevents the administration from implementing its plan to waive the work requirements of the 1996 welfare reform law; and
- preserves critical reforms that have helped lift millions of American families out of poverty.

## COMMITTEE VIEWS

*Introduction*

In 1996, the Republican-led Congress passed, and President Bill Clinton signed into law, the Personal Responsibility and Work Opportunity Act<sup>1</sup>, better known as the welfare reform law of 1996. The reforms offered new flexibility to states in designing their welfare programs in exchange for fixed federal funds and a simple promise that welfare recipients engage in work and related activities. This important idea—that work should be an important part of the nation's social programs—has been an unqualified success, leading to increased work and earnings, along with record declines in poverty and government dependence, for low-income families.

Under the old system, approximately 5 million families were on welfare, many for as long as 13 years. Due to a lack of focus on obtaining work, the failed welfare policies of the past left families trapped in a cycle of dependency and poverty.

Despite moving millions of Americans off government dependency and into a job, welfare reform is now being undermined through a regulatory effort by the Obama administration. Under the guise of state flexibility, the U.S. Department of Health and Human Services announced it would allow states to seek a waiver from the work requirements critical to the success of welfare reform. Current law is clear that the work requirements cannot be waived, yet the administration is attempting to do so through an end run around Congress that could unilaterally weaken welfare reform.

The House Committee on Education and the Workforce strongly believes H.J. Res. 118 is needed to ensure the work requirements under the 1996 welfare reform law are not undermined by the administration's reckless waiver policy. This important action guarantees the work requirements defined in law continue to be effective in ensuring welfare recipients engage in the work and work-related activities they need to increase their earnings, leave welfare, and support themselves and their families.

*The importance and effects of welfare reform*

In 1996, Congress approved the historic welfare reform law, fundamentally transforming the federal government's vision for assisting low-income individuals and families. The law centered on adding a workforce component to the main public assistance program, believing it would encourage employment among the poor, end dependency on government assistance, and reduce long-term intergenerational poverty. While most House Democrats opposed the 1996 welfare reform (in fact, most House Democrats have opposed all nine attempts by Congress to institute or strengthen welfare's work requirements over the last 16 years), it was signed into law by President Bill Clinton:

I made my principles for real welfare reform very clear from the beginning. First and foremost, it should be about moving people from welfare to work (President Bill Clinton announcing welfare reform legislation, July 31, 1996).

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<sup>1</sup> Public Law 104–193.

The law created the Temporary Assistance for Needy Families (TANF) block grant<sup>2</sup>, which provides states with a set amount of federal funding and flexibility to design and carry out their social safety net program. TANF replaced the Aid to Families with Dependent Children (AFDC) entitlement program, created in 1935, which contained few restrictions on the availability of cash support to low-income families.

Though TANF operates as a block grant, a number of important requirements are attached to states' use of funds, particularly for families receiving "assistance" (largely defined as cash benefits). Under the law, states must demonstrate at least 50 percent of all families and 90 percent of all two-parent families are engaged in work-related activities, including: (1) unsubsidized employment; (2) subsidized private sector employment; (3) subsidized public sector employment; (4) work experience if sufficient private sector employment is not available; (5) on-the-job training; (6) job search and job readiness assistance (not to exceed six weeks, or 12 weeks if the participant lives in a state in which the unemployment rate is at least 50 percent greater than the national average); (7) community service programs; (8) vocational educational training (not to exceed 12 months with respect to any individual); (9) job skills training directly related to employment; (10) education directly related to employment for a recipient who has not received a high school diploma or a certificate of high school equivalency; (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received a certificate; and (12) the provision of child care services to an individual who is participating in a community service program. The law also limits how long a family with an adult can receive assistance to five years.

While state caseload reductions differ by state, welfare reform is considered an unqualified success. Prior to 1996, the main goal of state- and county-led welfare programs was to provide cash assistance. Now, most states have radically changed their welfare programs to emphasize work. More than 30 states reported that TANF operations were included in One-Stop Career Centers authorized under the Workforce Investment Act, and 16 states reported that TANF funds were used as one of the main sources to operate their workforce investment programs.<sup>3</sup> Caseloads have declined by 65 percent nationwide from their all-time high of 5.1 million families in 1994 to 1.8 million families in December 2011. The total number of families receiving assistance is now lower than at any time since 1970.<sup>4</sup>

Most importantly, the law has been successful in helping end the cycle of dependency. Before reform, the average length of stay on welfare for recipients was 13 years. Even though TANF now has a five-year time limit, only 1.7 percent of the 1.7 million case closings in FY 2009 were due to a family reaching the federal time limit. More than two million mothers entered the workforce, earnings for female headed families increased while their income from

<sup>2</sup> 42 U.S.C. 601-619.

<sup>3</sup> GAO-07-1096, One-Stop System Infrastructure Continues to Evolve, but Labor Should Take Action to Require All Employment Service Offices Are Part of the System, September 4, 2007.

<sup>4</sup> U.S. Department of Health and Human Services, Monthly Number of Families Receiving Cash Welfare: 1959-2011.

welfare payments fell, and child poverty declined every year between 1993 and 2000.

Many Democrats and advocates have argued the nation's economic prosperity should be credited with the significant reductions in state caseloads from 1996 to 2008, the increase in work, and the reduction in poverty. However, under the former law, caseloads remained constant or increased during times of economic expansion. In addition, the current national caseload has increased only slightly during the most recent recession and never approached 1994 levels. This clearly demonstrates the welfare reform law passed by Republicans has worked and continues to work for low-income families and the nation's taxpayers. Arthur C. Brooks, president of the American Enterprise Institute, summarized the national and historic impact of the 1996 welfare reform law:

The 1996 law was arguably the most successful policy change to help low-income Americans in the past 60 years. Welfare policies of the 1960s led generations of families to languish on the government dole at subsistence levels, never gaining the skills to work and with little hope to rise. It took more than a decade to get Congress to reverse course. But it was worth the effort.<sup>5</sup>

According to a recent survey, more than 80 percent of the American people continue to support the work requirements at the heart of welfare reform,<sup>6</sup> which have raised earnings, lowered poverty, and reduced government dependence. H.J. Res. 118 ensures this important progress is not undermined by the current administration.

*Recent actions to undermine welfare reform*

On July 12, 2012, the U.S. Department of Health and Human Services' (HHS) Administration for Children and Families issued an Information Memorandum announcing its willingness to waive certain federal work participation standards of TANF to permit states to test "alternative and innovative strategies, policies, and procedures that are designed to improve employment outcomes for needy families." In short, the new waiver scheme would permit states to have welfare-to-work initiatives assessed using measures other than work participation rates.

HHS is using the limited authority the secretary is granted under section 1115 of the Social Security Act<sup>7</sup> (SSA) to limit state plan reporting requirements included in section 402 of the law<sup>8</sup> to waive the TANF mandatory work requirement under section 407 of the SSA,<sup>9</sup> a highly questionable proposition and a clear violation of congressional intent. Similar to most federal laws, TANF requires states to submit a plan to receive federal funds. Included within this plan is an outline of the family assistance program the state intends to operate, which includes a requirement that it ensure

<sup>5</sup> Brooks, Arthur C. "Obama and 'Earning Your Success': The work mandate was the most successful welfare reform in 60 years. Ending it is a tragedy" Wall Street Journal August 6, 2012.

<sup>6</sup> Rasmussen Reports, "83% Favor Work Requirement for Welfare Recipients" ([http://www.rasmussenreports.com/public-content/business/jobs\\_employment/july\\_2012/83\\_favor\\_work\\_requirement\\_for\\_welfare\\_recipients](http://www.rasmussenreports.com/public-content/business/jobs_employment/july_2012/83_favor_work_requirement_for_welfare_recipients)) July 18, 2012.

<sup>7</sup> 42 U.S.C. 1315.

<sup>8</sup> 42 U.S.C. 602.

<sup>9</sup> 42 U.S.C. 607.

“parents and caretakers receiving assistance under the program engage in work activities” in accordance with the work participation standards. The administration is using this benign reference in the state plan to justify its recent action.

As Robert Rector, one of the authors of the 1996 bill, and Andrew Grossman, an expert in social welfare policy, have stated:

There is absolutely no indication, in the text of the 1996 welfare reform or elsewhere, that Congress intended to allow the waiver of the centerpiece provision: work requirements. To waive those requirements is to violate the “workfare” law, the Constitution’s vesting of legislative power in the Congress, and the president’s fundamental duty to faithfully carry out all the laws.<sup>10</sup>

Since TANF was authorized more than 16 years ago, no HHS Secretary—Republican or Democratic—has attempted to assert his or her authority to waive the mandatory work requirements under the law. It is clear the secretary does not have authority to waive the work requirements included in section 407. Section 1115 of the SSA, authorizing limited demonstration projects, clearly states:

The Secretary may waive compliance with any of the requirements of section 2, 402, 454, 1002, 1402, 1602, or 1902, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project. . .<sup>11</sup>

The language does not authorize the secretary to waive section 407. In a letter dated July 12, 2012 to HHS Secretary Kathleen Sebelius, House Ways and Means Chairman Dave Camp wrote, “Simply put, if Congress had intended to allow waivers of TANF work requirements, it would have said so in the statute. Instead, Congress did the opposite and explicitly prohibited waivers to section 407 work requirements, among other sections of the Social Security Act.”<sup>12</sup>

Indeed, congressional intent is unambiguous. In the House Ways and Means Committee Report from November 1996, committee members state clearly, “Waivers granted after the date of enactment may not override provisions of the TANF law that concern mandatory work requirements.”<sup>13</sup>

Even governors from across the country have expressed significant concerns about HHS’ July memorandum announcing states could waive the work requirements at the heart of the 1996 welfare reform law. Iowa Governor Terry Branstad recently stated in a letter to the secretary:

This weakening of work requirements for TANF, veiled as flexibility for states, harms the ability of states to empower citizens and undermines the successful TANF reforms that have been in place since 1996. In this case, I

<sup>10</sup> National Review Online, “HHS Can’t Waive Workfare,” August 9, 2012.

<sup>11</sup> 42 U.S.C. 1315.

<sup>12</sup> Press release entitled, “Camp, Hatch Blast HHS Move to Undermine Work Requirements for Welfare Recipients and Question HHS’ Legal Authority.” For more information see: [http://waysandmeans.house.gov/uploadedfiles/7.12.12\\_tanf\\_work\\_requirements\\_letter.pdf](http://waysandmeans.house.gov/uploadedfiles/7.12.12_tanf_work_requirements_letter.pdf).

<sup>13</sup> Committee on Ways and Means, U.S. House of Representatives “Summary of Welfare Reforms Made By Public Law 104–193 The Personal Responsibility And Work Opportunity Reconciliation Act And Associated Legislation” November 6, 1996, page 23.

believe your Department has confused flexibility for states with a selection of bad policy choices.

Kansas Governor Sam Brownback also weighed in, stating:

The Department's recent informational memorandum released on July 12th giving states the ability to opt-out of the very work requirements which have proven successful over the past 15 years is alarming . . . The work requirement was the centerpiece of the 1996 reform law and intentionally set-aside by Congress so as not to be among those items that are waiver eligible.

As the lack of hearings and committee action during the 110th, 111th, and 112th Congresses authorizing changes to TANF's work requirements demonstrates, HHS' guidance was not issued in response to any change in TANF law, nor does it follow up on any proposal from the Obama administration that seeks to make policy changes to TANF through the regular legislative process. Instead, the unprecedented policy announcement by the Obama administration simply declares—despite specific statutory provisions to the contrary—states may waive work requirements at the heart of the nation's successful welfare reform program.

*Protecting welfare reform and holding the administration accountable*

Under the Congressional Review Act (CRA), the Comptroller General of the U.S. Government Accountability Office (GAO) is responsible for reviewing all rules in order to determine whether relevant federal agencies have complied with federal requirements. As part of these duties, he or she determines what constitutes a rule for the purposes of the CRA. In this case, HHS did not submit the Information Memorandum as a rule to Congress nor GAO, arguing that the TANF waiver proposal does not constitute an official rule.

At the behest of House Ways and Means Committee Chairman Camp and Senator Orrin Hatch, GAO released an analysis of the Information Memorandum.<sup>14</sup> While HHS stated the memorandum did not fit into the definition of a rule, GAO concluded the Information Memorandum is a "statement of general applicability and future effect, designed to implement, interpret, or prescribe law or policy with regard to TANF" and, therefore, concluded "the July 12, 2012 Information Memorandum is a rule under the CRA." As Chairman John Kline stated in his opening remarks during the committee's markup of H.J. Res. 118:

The nonpartisan Government Accountability Office has confirmed the administration's welfare waiver plan is a rule and Congress has the right to review it. If a president runs roughshod over the law, seizes power that he doesn't have, and pursues policies that hurt needy families, Congress has no choice but to act.

The committee believes congressional action, consistent with the law, is necessary to protect the requirements that are the heart of the nation's successful efforts to promote work for welfare recipi-

<sup>14</sup> Letter entitled, "Temporary Assistance for Needy Families: Information Memorandum Constitutes Rule for the Purposes of the Congressional Review Act." For more information, see: <http://www.gao.gov/assets/650/647778.pdf>.

ents. The committee notes the Obama administration, more so than any president or executive branch in recent memory, has demonstrated a pattern of regulatory overreach and action by executive fiat. Instead of working with Congress or submitting plans for the House and Senate to consider during the upcoming reauthorization process, the administration chooses to ignore the law. Rep. Judy Biggert summarized this fact in her remarks during the committee's markup of H.J. Res. 118:

Like many of my colleagues, I am concerned that this represents yet another example of this Administration's my way or the highway' approach to governing. We've seen it in education, immigration, health care, and labor policy, and now it's happening in welfare reform. According to the Government Accountability Office, these waivers have no basis in law. And, by circumventing the authority of Congress, this Administration has lost any credibility to argue that this is anything more than an attempt to unwind years of progress in moving families from welfare to work.

Though no states have been approved for waivers at this time, it is conceivable states could apply and receive approval to count as "work" many activities that have been previously rejected by Congress. In 2005, the Government Accountability Office (GAO) issued a report that found states counted activities such as exercise, helping a friend with household tasks and errands, and personal journaling as "work activities."<sup>15</sup> In 2006, Congress reauthorized the TANF program as part of the Deficit Reduction Act, preventing states from continuing such practices. The administration's actions would devalue work, taking us back not only to the questionable practices of the mid-2000s, but to the 1930s, 1960s, and 1980s.

*Debunking false statements from the administration and congressional Democrats*

The committee notes the administration has stated it will only approve waivers relating to the work participation requirements that would lead to a "more effective means of meeting the work goals of TANF." In a letter to Senator Hatch dated July 18, 2012, Secretary Sebelius explains HHS will only approve waivers to states that promise a 20 percent increase in employment exits from the year before. While supposedly an important part of the administration's waiver package, this '20 percent promise' does not appear anywhere in the Information Memorandum and was only made after congressional Republicans challenged the president's controversial waiver scheme.

The plan to "increase employment by 20 percent" centers on an old performance measure Congress explicitly excluded from the 1996 reform because it is a misleading measure of workfare and dependency reduction. Employment exits naturally rise when more people are on welfare and fall when caseloads decrease. Using this metric is indeed a way to return us to the failed policies of the past that resulted in ever-increasing welfare rolls, and will undermine the successful efforts of the last two decades to reduce poverty and

<sup>15</sup> GAO-05-821, HHS Should Exercise Oversight to Help Ensure TANF Work Participation Is Measured Consistently across States, August 19, 2005.



empower families. Furthermore, the 20 percent threshold is minuscule when compared to current employment exits. Currently, approximately 1.5 percent of the monthly TANF caseload leaves the program because of increased employment each month. Under the administration's new welfare proposal, a state can be fully exempt from the work standards if it raises its employment exits by 0.3 percent, to a mere 1.8 percent, equaling less than 100 people in some states.

Recently, committee Democrats released a Congressional Research Service (CRS) memorandum suggesting H.R. 4297, the Workforce Investment Improvement Act of 2012, provides authority to states to waive welfare work requirements. In an effort to hide their opposition to welfare reform and make excuses for the administration's recent actions to weaken the current work requirements contained in law, Democrat Members of the House Committee on Education and the Workforce criticized Republicans for supporting efforts to streamline effective workforce development programs.

Under section 501 of the Workforce Investment Act of 1998 (WIA), states are permitted to submit to the appropriate secretaries a unified plan to administer employment and training programs across one or more of 15 different federal programs. This unified plan can include coordination between WIA and TANF programs. Under the law, the secretary of each program approving such plan has the authority to deny a plan that is not consistent with the requirements of the federal statute authorizing the activity or program.

H.R. 4297 adds a new subsection (e) to section 501 allowing states to consolidate funds from a specified list of programs into the Workforce Investment Fund "in order to reduce inefficiencies in the administration of federally-funded State and local employment and training programs" not to bypass the rules and regulations to which these programs must adhere. Some examples include: allowing TANF offices to be co-located in the One-Stop Career Centers, reducing the number of state directors and local personnel required to administer multiple federally funded employment and training programs (e.g. some federal laws require states to designate, hire, and use specific personnel), and directing federal funds to a single state and/or local agency.

The language in H.R. 4297 is clear that governors can consolidate funds only to "reduce inefficiencies in the administration of federally-funded State and local employment and training programs." Even the CRS report on which Democrats rely recognizes this fact, noting "the amendment [H.R. 4297] states that the purpose" is to reduce administrative inefficiencies. Rather than have multiple state departments responsible for administering job training programs, H.R. 4297 allows states to consolidate their administrative funds and administrative activities into one single place. Republicans have a clear record of strengthening the work requirements at the heart of the 1996 welfare reform bill. Democrats, on the other hand, have voted on numerous occasions to weaken TANF work requirements.

### *Conclusion*

Welfare reform has been one of the most successful domestic policy reform initiatives of the last two decades. The Temporary As-

sistance for Needy Families program has reduced dependency and improved the lives of millions. In contrast to House Democrats, who have opposed the last nine attempts to support strong work requirements in our nation's welfare system, the Committee on Education and the Workforce strongly supports House Joint Resolution 118. Congress cannot allow the Obama administration to circumvent the law and roll back critical welfare reform.

Nearly 23 million Americans are struggling to find a full-time job in the Obama economy. Yet even in the midst of a persistently weak economy, the percentage of children in female-headed households living in poverty today is lower than before welfare reform was signed into law. Instead of providing support that will help unemployed Americans move into employment, the president's executive overreach will lead to more dependency for those struggling the most under his failed policies. President Obama should work with Congress on solutions that will create jobs and expand opportunity, not circumvent Congress to advance controversial policies that lead to more dependence and less hope for the American people.

#### SECTION-BY-SECTION ANALYSIS

Congress expresses its disapproval of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to Temporary Assistance to Needy Families and prohibits it from going into effect.

#### EXPLANATION OF AMENDMENTS

No amendments to H.J. Res. 118 were offered.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this resolution to the legislative branch. H.J. Res. 118 expresses congressional disapproval of the U.S. Department of Health and Human Services July 12, 2012 rule proposing to allow states to waive work requirements under the Temporary Assistance for Needy Families program, and states that the rule "shall have no force or effect."

#### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This issue is addressed in the CBO letter.

#### EARMARK STATEMENT

H.J. Res. 118 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

#### ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amend-

ments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: September 13, 2012**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 1

Bill: H.J.Res. 118

Disposition: Ordered favorably reported to the House by a vote of 22-16

Sponsor/Amendment: Mr. Petri / motion to report the bill to the House with the recommendation that the resolution do pass

| Name and State            | Aye | No | Not Voting | Name and State            | Aye | No | Not Voting |
|---------------------------|-----|----|------------|---------------------------|-----|----|------------|
| Mr. KLINE (MN) (Chairman) | X   |    |            | Mr. MILLER (CA) (Ranking) |     | X  |            |
| Mr. PETRI (WI)            | X   |    |            | Mr. KILDEE (MI)           |     | X  |            |
| Mr. McKEON (CA)           | X   |    |            | Mr. ANDREWS (NJ)          |     | X  |            |
| Mrs. BIGGERT (IL)         | X   |    |            | Mr. SCOTT (VA)            |     | X  |            |
| Mr. PLATTS (PA)           | X   |    |            | Ms. WOOLSEY (CA)          |     | X  |            |
| Mr. WILSON (SC)           | X   |    |            | Mr. HINOJOSA (TX)         |     | X  |            |
| Mrs. FOXX (NC)            | X   |    |            | Mrs. McCARTHY (NY)        |     | X  |            |
| Mr. GOODLATTE (VA)        | X   |    |            | Mr. TIERNEY (MA)          |     | X  |            |
| Mr. HUNTER (CA)           | X   |    |            | Mr. KUCINICH (OH)         |     | X  |            |
| Mr. ROE (TN)              | X   |    |            | Mr. HOLT (NJ)             |     | X  |            |
| Mr. THOMPSON (PA)         | X   |    |            | Mrs. DAVIS (CA)           |     | X  |            |
| Mr. WALBERG (MI)          | X   |    |            | Mr. GRIJALVA (AZ)         |     | X  |            |
| Mr. DesJARLAIS (TN)       | X   |    |            | Mr. BISHOP (NY)           |     | X  |            |
| Mr. HANNA (NY)            | X   |    |            | Mr. LOEBSACK (IA)         |     | X  |            |
| Mr. ROKITA (IN)           | X   |    |            | Ms. HIRONO (HI)           |     | X  |            |
| Mr. BUCSHON (IN)          | X   |    |            | Mr. ALTMIRE (PA)          |     | X  |            |
| Mr. GOWDY (SC)            | X   |    |            | Ms. FUDGE (OH)            |     |    | X          |
| Mr. BARLETTA (PA)         | X   |    |            |                           |     |    |            |
| Mrs. NOEM (SD)            | X   |    |            |                           |     |    |            |
| Mrs. ROBY (AL)            | X   |    |            |                           |     |    |            |
| Mr. HECK (NV)             | X   |    |            |                           |     |    |            |
| Mr. ROSS (FL)             |     |    | X          |                           |     |    |            |
| Mr. KELLY (PA)            | X   |    |            |                           |     |    |            |

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c) of House Rule XIII, the goal of H.J. Res. 118 is to disapprove the rule proposing to waive welfare work requirements and provide that the rule shall have no force or effect. The Committee expects the Department of Labor to comply with these provisions and implement the law in accordance with these stated goals.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for H.J. Res. 118 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 17, 2012.*

Hon. JOHN KLINE,  
*Chairman, Committee on Education and the Workforce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.J. Res. 118, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jonathan Morancy.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.J. Res. 118—A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program*

Summary: H.J. Res. 118 would disapprove the rule submitted by the Department of Health and Human Services (HHS) on July 12, 2012, that modifies the waiver authority with respect to work requirements in the Temporary Assistance for Needy Families program (TANF). H.J. Res. 118 would invoke a legislative process established by the Congressional Review Act (Public Law 104–121) to disapprove the new waiver authority rule. If H.J. Res. 118 is enacted, the rule would have no force or effect.

CBO estimates that enacting the resolution would reduce direct spending by \$59 million over the 2013–2022 period. (The resolution would not affect revenues.) Pay-as-you-go procedures apply because enacting the legislation would affect direct spending.

CBO does not expect that implementing the resolution would have any significant effect on spending subject to appropriation.

The joint resolution contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of House Joint Resolution 118 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

|                                  | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |           |           |
|----------------------------------|---|------|------|------|------|------|------|------|------|------|-----------|-----------|
|                                  | 2013                                    | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2013–2017 | 2013–2022 |
| CHANGES IN DIRECT SPENDING       |   |      |      |      |      |      |      |      |      |      |           |           |
| Estimated Budget Authority ..... | –5                                      | –6   | –6   | –6   | –6   | –6   | –6   | –7   | –7   | –7   | –28       | –59       |
| Estimated Outlays .....          | –5                                      | –6   | –6   | –6   | –6   | –6   | –6   | –7   | –7   | –7   | –28       | –59       |

Note: Components may not sum to totals because of rounding.

Basis of estimate: For the purposes of this estimate, CBO assumes that the legislation will be enacted near the beginning of fiscal year 2013.

On July 12, 2012, HHS released Information Memorandum No. TANF–ACF–IM–2012–03. That memorandum encouraged states to come up with new ways to meet TANF goals, and it stated that the Administration for Children and Families (ACF), which administers TANF, would provide states waivers through section 1115 of the Social Security Act so that states could implement those proposals. Enacting H.J. Res. 118 would prevent that memorandum from taking effect.

Under the memorandum, CBO expects that penalties for states that don't meet the work requirements specified in the Social Security Act would be reduced because states would have more options to meet such requirements. Thus, CBO estimates that enacting the resolution would reduce direct spending by \$59 million over the 2012–2022 period, as some states would pay increased penalties to the federal government (which are recorded in the budget as an offset to direct spending) for failing to meet the work requirements.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.J. RES. 118 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON SEPTEMBER 13, 2012

|   | By fiscal year, in millions of dollars— |      |      |      |      |      |      |      |      |      |      |               |               |
|---|---|------|------|------|------|------|------|------|------|------|------|---------------|---------------|
|   | 2012                                    | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2012–<br>2017 | 2012–<br>2022 |
| NET INCREASE OR DECREASE (–) IN THE DEFICIT |   |      |      |      |      |      |      |      |      |      |      |               |               |
| Statutory Pay-As-You-Go Impact ...          | 0                                       | –5   | –6   | –6   | –6   | –6   | –6   | –6   | –7   | –7   | –7   | –28           | –59           |

Note: Components may not sum to totals because of rounding.

**Intergovernmental and private-sector impact:** For large entitlement programs like TANF, UMRA defines an increase in the stringency of conditions as an intergovernmental mandate if the affected governments lack authority to offset the costs of those conditions while continuing to provide required services. If H.J. Res. 118 were enacted, CBO expects that some states would fail to meet work requirements of the program and would therefore be assessed penalties that would total \$59 million over the 2013–2022 period. However, states would continue to be able to make changes to TANF, for example adjusting eligibility criteria or the structure of programs, to avoid or offset such costs. Because the TANF program affords states such broad flexibility, voiding the memorandum would not be considered an intergovernmental mandate as defined by UMRA. H.J. Res. 118 also contains no private-sector mandates.

Previous CBO estimate: On September 17, 2012, CBO transmitted a cost estimate for H.J. Res. 118 as ordered reported by the House Committee on Ways and Means. The resolution language in both versions is identical and the estimated budgetary effects are the same.

Estimate prepared by: Federal Costs: Jonathan Morancy; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Vi Nguyen.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.J. Res. 118. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely

submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not make any changes in existing federal statute.



## MINORITY VIEWS

H.J. Resolution 118 is a cynical political stunt during an election season. We are deeply disappointed that Committee Republicans have chosen to polarize, politicize, and obstruct instead of working together to provide solutions for the real problems confronting American families, rather than fabricated ones.

Despite the inflammatory rhetoric, Republican claims that the Information Memorandum (IM) issued by the Department of Health and Human Services (HHS) will gut welfare reform are simply false. Ron Haskins, former Republican staff director of the Ways and Means Human Resources Subcommittee and one of the chief architects of the 1996 law, has concluded that the charges that the IM weakens the work requirements are false.<sup>i</sup> FactCheck.org, “a nonpartisan, nonprofit consumer advocate for voters that aims to reduce the level of deception and confusion in U.S. politics,” a project of the Annenberg Public Policy Center at the University of Pennsylvania, has concluded these charges are false.<sup>ii</sup> PolitiFact, a project of the Tampa Bay Times, has concluded these charges are false. And the Fact Checker at the Washington Post has concluded these charges are false.<sup>iii</sup> When asked by Representative Andrews during the Committee mark-up of H.J. Resolution 118 to point to where in the IM work requirements are weakened, Republicans provided no response.

The rhetoric behind H.J. Resolution 118 is short on facts. The fact is the Administration’s waiver proposal allows state-driven innovation to improve employment outcomes.<sup>iv</sup> The fact is the waiver proposal clearly states: “HHS will only consider approving waivers relating to the work participation requirements that make changes intended to lead to more effective means of meeting the work goals of TANF.” The *fact* is the waiver proposal is explicitly designed “to challenge states to engage in a new round of innovation that seeks to find more effective mechanisms for helping families succeed in employment” and requires evaluations and performance targets “that ensure an immediate focus on measurable outcomes.” The *fact* is the Secretary of HHS has even further clarified that waiver applications must show how a state’s proposed changes would increase employment of TANF recipients by at least 20 percent. The *fact* is the legal authority for the Department of Health and Human Services to issue these waivers is clear.<sup>v</sup> The *fact* is that

<sup>i</sup> See, <http://www.thedailybeast.com/articles/2012/08/08/ron-haskins-calls-welfare-charges-ridiculous.html>.

<sup>ii</sup> See, <http://www.factcheck.org/2012/08/gutting-welfare-to-work>.

<sup>iii</sup> See, <http://www.politifact.com/truth-o-meter/statements/2012/aug/07/mitt-romney/mitt-romney-says-barack-obamas-plan-abandons-tenet/>.

<sup>iv</sup> See, <http://www.acf.hhs.gov/programs/ofa/policy/im-ofa/2012/im201203/im201203.html>.

<sup>v</sup> Congressional Resource Service Memo to Honorable Sander M. Levin, September 4, 2012, Authority of the Secretary of HHS to Approve Certain Demonstration Programs Pursuant to Section 1115 of the Social Security Act.

requests for HHS to exercise its waiver authority came from the states, including from Republican Governors, yet Republican cries of the rules being gamed must mean Governors wish to gut the welfare system, despite states having no financial incentive to do so and despite Committee Republicans' repeated requests for increased state flexibility in a wide range of federal policies. The fact is that Republicans have repeatedly voted for an even broader waiving of TANF program requirements, including the work participation standards. According to the Congressional Research Service, that Republican proposal passed the House of Representatives three times between 2002 and 2005.<sup>vi</sup> And on June 7, 2012, just weeks before the Obama administration announced its waiver process, the House Education and the Workforce Committee debated and voted on Republican legislation to reauthorize the Workforce Investment Act (WIA), H.R. 4297, a bill which allows states to eliminate work participation requirements under the TANF program altogether.<sup>vii</sup> The state discretion provided under H.R. 4297 to mix funds and ignore program requirements is not surprising: The mantra behind H.R. 4297 is state flexibility. So, at the same time Republicans continue to repeat widely discredited statements on the Obama administration proposal, it was Committee Republicans who just voted to eliminate work requirements.

While the economy has shown signs of moving in the right direction, Committee Democrats believe more must be done to help the estimated 23 million unemployed and underemployed Americans find and keep jobs that promote self-sufficiency. The Administration's proposal that would provide waivers for state plans that increase employment by 20 percent or more should not be blocked as part of a political campaign. This Congress should rise above the campaign advertisements.

Committee Democrats have repeatedly asked the Majority to work together on bipartisan solutions for our country. There is an urgent need for Congress to pass legislation such as the American Jobs Act to help local communities hire more police, firefighters and teachers; modernize, renovate, and repair American schools and community colleges; and other job creating policies that will keep our economy moving in the right direction. Efforts to move portions of that bill were blocked by Committee Republicans repeatedly this Congress. Our current economy also requires preparing more American workers to advance to higher-skilled jobs of the future. Even with a stubbornly high unemployment rate, employers currently need to fill 3.7 million jobs in high-growth industries such as health care that require specific skill sets. Education and training investments in our diverse workforce are now more important than ever. On its face, the waiver proposal that H.J. Resolution 118 would block is intended to give states more leeway, for example, in providing opportunities for TANF recipients to receive the training they need to obtain and keep a job.

Instead of obstructing the Administration's effort to get more Americans employed, we should be working together to move the

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<sup>vi</sup> Roll Call Vote #170, May 16, 2002; Roll Call Vote #30, February 13, 2003; Roll Call Vote #601, November 18, 2005.

<sup>vii</sup> Congressional Resource Service Memo to the Committee on Education and the Workforce, September 12, 2012, State Unified Plan Provisions in H.R. 4297.

country forward. Committee Democrats therefore reject H.J. Resolution 118, recognizing it for the counterproductive political stunt that it is. It does not create a single job. It does not increase employment. It does nothing to help the lives of American families.

GEORGE MILLER, *Senior  
Democratic Member.*

DALE E. KILDEE.

BOBBY C. SCOTT.

RUBÉN HINOJOSA.

JOHN F. TIERNEY.

RUSH HOLT.

RAÚL M. GRIJALVA.

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