113TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 113–13
Part 1

PRESERVING WORK REQUIREMENTS FOR WELFARE PROGRAMS ACT OF 2013

MARCH 11, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 890]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 890) to prohibit waivers relating to compliance with the work requirements for the program of block grants to States for temporary assistance for needy families, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY AND BACKGROUND

A. Purpose and summary

The bill, H.R. 890, as ordered reported by the Committee on Ways and Means on March 6, 2013, prohibits the Secretary of Health and Human Services (HHS) from issuing waivers relating to compliance with the work requirements for welfare recipients under the Temporary Assistance for Needy Families (TANF) program. Specifically, the legislation states that the Secretary of Health and Human Services (HHS) may not "finalize, implement, enforce, or otherwise take any action to give effect to the Information Memorandum dated July 12, 2012" which HHS issued regarding waiving the TANF work requirements. Further, the legislation states the Secretary may not "authorize, approve, renew, modify, or extend any experimental, pilot, or demonstration project . . . that

waives compliance with a requirement of section 407," which contains the TANF work requirements.

B. Background and the need for legislation

On February 28, 2013, Representative Dave Camp (R–MI), Chairman of the Committee on Ways and Means, and Representative John Kline (R–MN), Chairman of the Committee on Education and the Workforce, along with Representative Steve Scalise (R–LA) and Representative Steve Southerland (R–FL) introduced H.R. 890, which prohibits the Secretary of HHS from issuing waivers related to compliance with the work requirements for welfare recipients under the TANF program.

Today's work requirements for welfare recipients under the TANF program stem from the 1996 welfare reform law (P.L. 104–193), which led to increased work and earnings, along with record declines in poverty and dependence on government cash welfare benefits among low-income families. Fully understanding the need for H.R. 890 requires a brief review of welfare reform history dating back to the late 1980s.

The failed former AFDC program did not include real work requirements

The 1996 welfare reforms replaced the prior Aid to Families with Dependent Children (AFDC) program with the new Temporary Assistance for Needy Families (TANF) program. AFDC, which originated in the New Deal of the 1930s, was characterized by no effective work or activity requirements for welfare recipients, who were allowed to collect welfare checks for unlimited periods of time. Prior to the 1996 reforms, almost two-thirds of families receiving welfare under AFDC remained on welfare for eight or more years, and the average lifetime receipt of welfare for families then receiving AFDC benefits was 13 years.[1]

Further, prior to the 1996 reforms, few recipients engaged in work while collecting benefits. In fiscal year 1995, a year in which the U.S. unemployment rate was under 6 percent, only nine percent of adults receiving AFDC were actually working. In contrast, in 2009 in the midst of the deepest recession since World War II during which the unemployment rate reached 10 percent, 24 percent of adults collecting TANF assistance were working, while other recipients of cash welfare participated in a variety of work-like activities including job training, job readiness, and education in exchange for their benefits.[2]

States tested new work requirements with pre-1996 waivers

Recognizing the serious failings of the former AFDC program, in the late 1980s and early 1990s a number of States sought waivers of AFDC rules so they could test new work and related requirements for welfare recipients, which otherwise would have been prohibited under AFDC law. Based in part on evidence from those pre-reform waiver demonstrations, the bipartisan 1996 TANF reforms

[1] Ways and Means Committee Print 104–14, Background Material and Data on Programs within the Jurisdiction of the Committee on Ways and Means (Green Book) Section 8, page 505, available online at http://www.gpo.gov/fdsys/search/pagedetails.action?granuleId=&packageId=GPO-CPRT-104WPRT23609.

[2] HHS TANF Ninth Report to Congress, Chapter 10, Table E, available online at http://www.acf.hhs.gov/sites/default/files/ofa/9th_report_to_congress_3_26_12.pdf.

created strong new work requirements for both persons receiving welfare benefits as well as States, among other major changes.

1996 Reforms created strong new work requirements in all states

In general, the 1996 reforms offered States new flexibility in designing welfare programs in exchange for fixed federal funds. However, in order to ensure that low-income families in all States benefitted from the lessons of pre-reform waiver demonstrations, the 1996 reforms included strong new Federal work requirements that expected all States to engage adult welfare recipients in work and related activities including job training, job readiness, and education. These work requirements now specify the minimum hours of work or related activities an individual must engage in each week, how "work activities" are defined, what share of adults on welfare must engage in work or related activities, and penalties for failure to comply, among other requirements.

A significant body of evidence suggests that the work requirements included in the 1996 welfare reform law have been essential to improvements in work, earnings, poverty and welfare dependence in the wake of that legislation. Specifically, since the work-based 1996 welfare reforms were enacted: (1) The employment of single mothers increased by 15 percent from 1996 through 2000, and even after the 2007 recession it is still higher than before welfare reform [3]; (2) According to HHS' latest report on the TANF program, "earnings in female-headed families remained higher in 2009 than in 1996 despite various shifts in the economic climate since TANF's enactment" [4]; (3) Since it replaced the New Deal-era AFDC program in 1996, TANF has been successful at cutting welfare dependence as caseloads have declined by 57 percent through December 2011 [5]; and (4) Child poverty fell dramatically after welfare reform and is still below the level in the early 1990s.[6]

Extensive evidence that TANF work requirements cannot be waived

To ensure that no State was able to re-establish the type of policies that led to record dependence under the prior AFDC program, the 1996 reforms included a prohibition on States' "waiving" the new work requirements. TANF law, history, and precedent support the fact that TANF work requirements may not be waived by the Secretary of HHS.

In passing the 1996 welfare reform law to end AFDC and create TANF, Congress redesigned every section of the prior AFDC program. Provisions applying to AFDC were eliminated, new requirements were added, and specific restrictions were put in place to create a program of fixed funding to States with strong work requirements. One fundamental change reflected in the new TANF law was a restructuring of section 402 of the Social Security Act,

[3] Congressional Research Service estimates based on Census Bureau data prepared for Ways and Means staff.

[4] HHS TANF Ninth Report to Congress, Chapter 4, available online at http://www.acf.hhs.gov/sites/default/files/ofa/9th_report_to_congress_3_26_12.pdf.

[5] HHS, ACF, 2011 TANF Caseload Data, available online at http://www.acf.hhs.gov/programs/ofa/data-reports/caseload/caseload_current.htm.

[6] U.S. Bureau of the Census, Current Population Survey, Annual Social and Economic Supplements, Table 3, Poverty Status of People, by Age, Race, And Hispanic Origin: 1959 to 2011, available online at http://www.census.gov/hhes/www/poverty/data/historical/hstpov3.xls.

which previously had specified 45 mandatory requirements States had to implement subject to review and approval by HHS. Section 402 was fundamentally redesigned through welfare reform to specify only seven reporting requirements that States must outline in a written report, with HHS having authority only over reviewing the State plans for completeness—instead of approving specific State policies as under the prior AFDC law.

Congress also created a new section titled "Waivers" in section 415 of the Social Security Act to explain how waivers would function after the passage of welfare reform. One provision allowed temporary waiver programs in effect prior to the enactment of welfare reform to continue until their natural expiration date. A second provision allowed for waivers submitted before August 22, 1996 and approved by the Secretary of HHS by July 1, 1997 to begin, but expressly prohibited such waivers from having any effect on the new TANF work requirements. Section 415 did not even contemplate waivers after the AFDC program ended, which the new TANF law required by no later than July 1, 1997 in all States.

Driving home this point that there could be no waivers of the TANF work requirements after enactment of the new law is the clear intention of the Committee on Ways and Means, whose Members were the principle authors of the reforms. Shortly after Congress approved the 1996 welfare reform law, the Ways and Means Committee issued a "Committee Print" in November 1996 summarizing the legislation.[7] In the section describing waivers under the new law, the summary stated simply *"Waivers granted after the date of enactment may not override provisions of the TANF law that concern mandatory work requirements."*

Further, after the passage of welfare reform and as required as part of the law, HHS issued regulations describing how certain provisions of TANF would be implemented. One section of these final 1999 HHS regulations[8] detailed how waivers granted under the prior AFDC program would continue to operate, and what States must do to continue their waivers until their expiration date. The HHS regulations said States with waivers to test work requirements under the prior AFDC program "may delay implementing TANF requirements for work participation" but that "because all States will need to conform to all TANF rules once their waivers expire, we urge States to plan accordingly." This final rule does not discuss waivers under the TANF program, and by indicating that all States would eventually have to implement TANF work requirements, it is clear that HHS agreed that there existed no authority to waive work requirements in the future.

In the years following this 1999 determination, HHS continued to state in official documents that the agency could not waive TANF work requirements. For example, in the immediate aftermath of Hurricane Katrina in 2005, States contacted HHS to determine what flexibility may be available to them under TANF law.

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[7] Ways and Means Committee Print 104–15, Summary of Welfare Reforms Made By Public Law 104–93, available online at http://www.gpo.gov/fdsys/pkg/CPRT-104WPRT27305/pdf/CPRT-104WPRT27305.pdf.

[8] Federal Register, Vol. 64, No. 69, April 12, 1999, Rules and Regulations, HHS, Administration for Children and Families (ACF), TANF Final Rule, available online at http://www.gpo.gov/fdsys/pkg/FR-1999-04-12/pdf/99–8000.pdf.

In the official HHS guidance issued in response,[9] HHS cited a number of things States could do to assist those affected by the hurricane given the substantial flexibility in the TANF law. However, the HHS guidance was unequivocal regarding HHS' waiver authority, stating "we have no authority under current law to waive any of the TANF statutory requirements" and "we have no authority to waive any of the provisions in the Act." Additional official HHS guidance regarding disasters was issued in 2007,[10] which repeated word for word the same statements about waiver authority made in the 2005 HHS guidance.

Obama Administration illegally waives work requirements

Despite this history and legal precedent, and after 16 years of welfare policy and practice to the contrary, the Obama Administration on July 12, 2012 released an "Information Memorandum"[11] that for the first time in the history of the TANF program suggested the Secretary of HHS has authority to waive work requirements in any State. The Administration's July 12, 2012 rule was not the result of any new legislation passed by Congress, nor even connected to any proposal submitted in a prior Administration budget or other legislative proposal. The Administration's July 2012 rule would have the effect of allowing any State to opt out of the TANF work requirements for the first time since welfare reform's passage in 1996. No prior HHS Secretary, Republican or Democrat, had ever concluded that he or she had the authority to waive the TANF work requirements.

House acts in 2012 to reject administration waiver policy under Congressional Review Act

It was to prevent precisely such illegal legislating by the Executive branch that Congress created the Congressional Review Act in 1996. The Congressional Review Act established expedited procedures by which Congress may disapprove of a federal agency rule by enacting a joint resolution of disapproval.

As HHS did not officially submit to Congress their guidance indicating that they would waive work requirements nor publish the July 12 Information Memorandum officially as a rule, on July 31, 2012, Chairman Camp and Senate Finance Ranking Member Hatch (R–UT) asked the Government Accountability Office (GAO) to review this Information Memorandum to determine if it was a rule that should have been submitted officially to Congress before taking effect.[12] On September 4, 2012, GAO reported to Congress that the HHS Information Memorandum was in fact a rule that must be submitted to Congress and that it is subject to review—and disapproval—under the Congressional Review Act.[13] On Sep-

[9] HHS, TANF Program Instruction, No. TANF–ACF–PI–2005–06, October 11, 2005, available online at http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2005/pi2005-6.htm.

[10] HHS, TANF Program Instruction, No. TANF–ACF–PI–2007–08, November 28, 2007, available online at http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2007/200708/PI200708.htm.

[11] HHS, TANF Information Memorandum, No. TANF–ACF–IM–2012–03, available online at http://www.acf.hhs.gov/programs/ofa/resource/policy/im-ofa/2012/im201203/im201203.

[12] Letter from Representative Dave Camp and Sen. Orrin Hatch to Comptroller Gene Dorado at GAO, July 31, 2012, available online at http://waysandmeans.house.gov/uploadedfiles/gao_tanf_waivers_letter.pdf.

[13] Letter from GAO Comptroller General Gene Dorado to Representative Dave Camp and Sen. Orrin Hatch, September 4, 2012, available online at http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=307447.

tember 11, 2012, senior members of the House and Senate introduced resolutions (H.J. Res. 118 and S.J. Res 50, respectively) to disapprove of the HHS July 12, 2012 rule waiving work requirements in the TANF program. The House Committees on Ways and Means and Education and the Workforce marked up and favorably reported H.J. Res. 118 on September 18, 2012, and this resolution of disapproval passed the House by a vote of 250–164 on September 20, 2012. The Senate did not act on S.J. Res 50 before the end of the 112th Congress.

House acts in 2013 to reject administration waiver policy under H.R. 890, saving taxpayers $61 million

As of March 6, 2013, the Committee knows of no States that have formally requested a waiver based on the Administration's illegal waiver rule. However, to ensure that the TANF work requirements are not waived by HHS, on February 28, 2013, Ways and Means Chairman Camp, along with Chairman Kline of the Committee on Education and the Workforce and Representatives Scalise and Southerland, introduced H.R. 890, the *Preserving Work Requirements for Welfare Programs Act of 2013.* This legislation would prohibit the Secretary of HHS from issuing waivers related to compliance with the work requirements for welfare recipients under the TANF program. The Committee on Ways and Means approved this legislation in a markup session held on March 6, 2013.

According to the Congressional Budget Office, H.R. 890 would reduce Federal welfare spending by $61 million over 10 years. CBO explained the reason for these savings in a February 27, 2013 letter[14] to Chairman Camp, suggesting that the Obama Administration's waiver policy would "lower the potential penalties assessed by the federal government for states' failure to meet work requirements in the Temporary Assistance for Needy Families (TANF) program." Under current law, States that fail the work requirements are penalized by losing some Federal TANF funds. Thus if the work requirements are waived, the penalties for failing the work requirements also would not be imposed, and Federal welfare spending would rise—specifically in States that would fail to satisfy the current work requirements. In short, by waiving the work requirements, the Administration policy would also let States that fail to satisfy the work requirements evade the current financial penalties for doing so. Avoiding this unnecessary expenditure of Federal welfare funds resulting from the Administration's illegal waiver policy is yet another reason arguing for the passage of H.R. 890.

As outlined above, the Committee believes H.R. 890 is needed to ensure the Secretary is not allowed to waive the critical TANF work requirements. The Secretary's waivers would not only cost taxpayers $61 million more in welfare spending, but they would also allow States to weaken work requirements and may effectively revive former AFDC rules under which large numbers of adults on welfare failed to engage in any productive work or activities in exchange for benefits. That would be especially destructive for families on welfare, millions of whom remained trapped in dependence

[14] CBO Letter to Chairman Dave Camp, February 27, 2013, available on line at: http://waysandmeans.house.gov/uploadedfiles/hjr118davecampltr.pdf.

year after year before welfare was transformed into a program that expected work or preparation for work in exchange for benefits.

C. Legislative history

Background

H.R. 890 was introduced on February 28, 2013, and was referred to the Committee on Ways and Means, in addition to the Committee on Education and the Workforce.

Committee action

The Committee on Ways and Means marked up the bill on March 6, 2013, and ordered the bill favorably reported.

Chairman Kline, Chairman of the Committee on Education and the Workforce, indicated by letter to Chairman Camp that the Committee on Education and the Workforce would forgo further consideration of H.R. 890, with the understanding that "this procedural route will not be construed to prejudice the committee's jurisdictional interest and prerogatives on this bill or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest" to the Committee on Education and the Workforce.

Committee hearings

On February 28, 2013, the Subcommittee on Human Resources held a hearing on the effects of waiving the work requirements in the TANF program. During this hearing, the Subcommittee heard testimony from experts on work and activity requirements and their importance in ensuring that States engage low-income parents in work and other productive activities so they can increase their work and earnings, leave poverty, and lead lives independent from welfare.

II. EXPLANATION OF THE BILL

Present law

The Public Welfare Amendments of 1962 (P.L. 87–543) established waiver authority within Section 1115 of the Social Security Act for public assistance programs, including the AFDC program that preceded TANF in helping fund cash assistance for needy families with children.

Though waivers under Section 1115 were allowed as early as 1962, they were not sought with much frequency until the late 1980s. Until that point, waivers were primarily related to program administration and service delivery. Between 1987 and 1989, during the Reagan Administration, 15 waiver applications for welfare reform were approved for 14 States; during the Administration of George H.W. Bush, another 15 applications from 12 States were approved. Until the enactment of the 1996 welfare law, the Clinton Administration continued to approve waivers of AFDC law. Between January 1993 and August 1996, a total of 83 waiver applications from 43 States and the District of Columbia were approved.

The 1996 welfare reform law (P.L. 104–193) replaced the prior AFDC program with the new TANF block grant. At the same time, the statute was reorganized and a new section 407 was added, titled "Mandatory Work Requirements." Section 402, which today is

the only section of TANF listed under the waiver "demonstration projects" authority in section 1115 of the Social Security Act, is titled "Eligible States; State Plan." Section 402 generally defines the "written document" that States must submit to the Secretary of HHS each year describing how the State intends to achieve various TANF program purposes, among other purposes. As a result of these and other changes, present law does not provide for waivers of TANF work requirements. The Obama Administration's July 12, 2012 information memorandum claiming authority to waive work requirements would be the first time HHS has claimed to have such waiver authority since TANF was created in 1996, and if allowed to stand would permit HHS to circumvent statutory work requirements in section 407 of the law.

Reasons for change

The Committee believes it is necessary to ensure the continuation and proper functioning of the work requirements that are the heart of the nation's successful efforts at promoting work for welfare recipients. Accordingly, H.R. 890 states that the Secretary of Health and Human Services (HHS) may not "finalize, implement, enforce, or otherwise take any action to give effect to the Information Memorandum dated July 12, 2012" which HHS issued regarding waiving the TANF work requirements. Further, the legislation states the Secretary may not "authorize, approve, renew, modify, or extend any experimental, pilot, or demonstration project . . . that waives compliance with a requirement of section 407," which contains the TANF work requirements. Finally, although to the Committee's knowledge as of March 6, 2013 no State had sought or been granted a waiver under the Administration's July 12, 2012 rule, H.R. 890 would rescind any waivers the Secretary may have granted related to the work requirements prior to the legislation's enactment.

The Committee believes that prohibiting waivers relating to compliance with the TANF work requirements is appropriate and that it will ensure the continuation of effective work requirements for adults collecting welfare benefits under the TANF program. Ultimately, this will promote more work, higher incomes, lower poverty, and more departures from welfare for independence and self-support, which are among the most important of the TANF program's goals.

Explanation of provision

The provision would prohibit the Secretary of HHS from issuing waivers related to compliance with the work requirements for welfare recipients under the TANF program.

Effective date

The provision becomes effective upon enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 890.

The bill, "H.R. 890, prohibiting waivers relating to compliance with the work requirements for the program of block grants to States for temporary assistance for needy families, and for other purposes," was ordered favorably reported without amendment to the House of Representatives by a roll call vote of 21 yeas to 14 nays (with a quorum being present). The vote was as follows:

Votes of the committee

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 890 "Preserving Work Requirements for Welfare Programs Act of 2013."

The bill, H.R. 890, was ordered favorably reported by a roll call vote of 21 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X			Mr. Levin		X	
Mr. Johnson	X			Mr. Rangel		X	
Mr. Brady	X			Mr. McDermott		X	
Mr. Ryan	X			Mr. Lewis		X	
Mr. Nunes	X			Mr. Neal		X	
Mr. Tiberi	X			Mr. Becerra		X	
Mr. Reichert	X			Mr. Doggett		X	
Mr. Boustany	X			Mr. Thompson		X	
Mr. Roskam	X			Mr. Larson		X	
Mr. Gerlach	X			Mr. Blumenauer		X	
Mr. Price	X			Mr. Kind		X	
Mr. Buchanan	X			Mr. Pascrell		X	
Mr. Smith	X			Mr. Crowley			
Mr. Schock	X			Ms. Schwartz			
Ms. Jenkins	X			Mr. Davis		X	
Mr. Paulsen	X			Ms. Sanchez		X	
Mr. Marchant	X						
Ms. Black	X						
Mr. Reed	X						
Mr. Young	X						
Mr. Kelly	X						
Mr. Griffin	X						
Mr. Renacci	X						

Votes on amendments

No amendments to the bill were offered.

IV. BUDGET EFFECTS OF THE BILL

A. Committee estimate of budgetary effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 890 as reported: The Committee agrees with the estimates prepared by the Congressional Budget Office (CBO), which are included below.

Statement regarding new budget authority and tax expenditures budget authority

The bill as reported is in compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives. Further, the bill involves no new or increased tax expenditures.

B. Cost estimate prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 8, 2013.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 890, the Preserving Work Requirements for Welfare Programs Act of 2013.

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

Sincerely,

PETER A. FONTAINE
(For Douglas W. Elmendorf).

Enclosure.

H.R. 890—Preserving Work Requirements for Welfare Programs Act of 2013

Summary: H.R. 890 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). If H.R. 890 is enacted, the rule would have no force or effect.

CBO estimates that enacting H.R. 890 would reduce direct spending by $61 million over the 2013–2023 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 H.R. 890 would have any significant effect on spending subject to appropriation.

H.R. 890 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 H.R. 890 is shown in the following table. The effects 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	2023	2013–2018	2013–2023
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	0	–6	–6	–6	–6	–6	–6	–7	–7	–7	–7	–29	–61
Estimated Outlays	0	–6	–6	–6	–6	–6	–6	–7	–7	–7	–7	–29	–61

Note: Annual amounts do not sum to totals because of rounding.

Basis of estimate: For the purposes of this estimate, CBO assumes that the legislation will be enacted during 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, which administers TANF, would provide states waivers through section 1115 of the Social Security Act so that states could implement those proposals. Enacting H.R. 890 would prevent that memorandum from taking effect.

Under the memorandum, CBO expects that penalties for states that do not meet the work requirements specified in section 407 of the Social Security Act would be reduced because some states would be able to have those requirement waived. We expect there would be no impact on net federal spending during fiscal year 2013, but that the expected net increase in penalties would average about $6 million in subsequent years. Thus, CBO estimates that enacting H.R. 890 would reduce direct spending by $61 million over the 2013–2023 period, as some states would face increased penalties to the federal government, in the form of reduced family assistance grants, 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.R. 890 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON MARCH 6, 2013

	By fiscal year, in millions of dollars—												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2013–2018	2013–2023
	NET DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	–6	–6	–6	–6	–6	–6	–7	–7	–7	–7	–29	–61

Note: Annual amounts do 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.R. 890 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 $61 million over the 2013–2023 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.R. 890 also contains no private–sector mandates.

Previous CBO estimate: On September 17, 2012, CBO transmitted a cost estimate for H.J. Res. 118, a proposal similar to H.R. 890. The bill language for H.R. 890 is somewhat different from the language contained in H.J. Res. 118 (in the 112th Congress), but CBO expects that the average annual effect would be the same. CBO's estimate of the cumulative 10-year impact for H.R. 890 is

slightly different from the total shown in our estimate last year for H.J. Res. 118 because of an assumption of later enactment for the current legislation (in 2013 versus in 2012), and because last year's estimate covered the period through fiscal year 2022, while the estimate for H.R. 890 covers the period through fiscal year 2023.

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.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE OF REPRESENTATIVES

A. Committee oversight findings and recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee concluded that it was appropriate and timely to enact the sections included in the bill, as reported.

On July 12, 2012, the Obama Administration released an "Information Memorandum" that for the first time in the history of the TANF program suggested the Secretary of HHS has authority to waive work requirements for welfare recipients. The Administration's July 2012 rule would have the effect of allowing any State to opt out of the TANF work requirements for the first time since welfare reform's passage in 1996. No prior HHS Secretary, Republican or Democrat, had ever concluded that he or she had the authority to waive the TANF work requirements.

On February 28, 2013, the Subcommittee on Human Resources held a hearing on the effects of waiving the work requirements in the TANF program. During this hearing, the Subcommittee heard testimony from experts on work and activity requirements and their importance in ensuring that States engage low-income parents in work and other productive activities so they can increase their work and earnings, leave poverty, and lead lives independent from welfare.

The Committee believes this legislation is necessary to ensure that TANF continues to operate as intended by current law. This legislation is also needed to ensure that any changes to the TANF work requirements are made by Congress, not through unilateral action taken by the Executive branch.

B. Statement of general performance goals and objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes new or additional funding compared with the current law baseline, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Duplication of federal programs

No provision of H.R. 890, the "Preserving Work Requirements for Welfare Programs Act of 2013," establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report

from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

D. Disclosure of directed rule makings

The Committee estimates that H.R. 890 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. 551.

E. Information relating to unfunded mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4).

The bill does not impose a Federal mandate on the private sector. The bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

F. Applicability of house rule XXI 5(B)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the sections of the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

G. Congressional earmarks, limited tax benefits, and limited tariff benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 890 makes no changes to current law.

DISSENTING VIEWS

We oppose H.R. 890 because it, just like nearly identical legislation brought before the Committee last year, is based on partisan charges that have been widely discredited by independent fact checkers and because the bill would block new and innovative ways to move more people from welfare to work. At a time when Congress confronts so many pressing issues, not the least of which is preventing the misguided cuts in the sequester from hurting our economy, H.R. 890 is a step in the wrong direction.

On July 12, 2012 the Department of Health and Human Services (HHS) issued a memorandum under its authority under Section 1115 of the Social Security Act to entertain requests from states to conduct demonstration projects under the Temporary Assistance for Needy Families (TANF) program. The HHS notice clearly states that these demonstration projects must be focused on improving employment outcomes. In a letter to the Chairman of the Committee on Ways and Means, HHS Secretary Sebelius stated, "the Department is providing a very limited waiver opportunity for states that develop a plan to measurably increase the number of beneficiaries who find and hold down a job. Specifically, Governors must commit that their proposals will move at least 20% more people from welfare to work compared to the state's past performance."

The Republican Governor of Utah, Gary Herbert, highlighted the need for waivers when he wrote a letter to HHS saying, "some of [the TANF work] participation requirements are difficult and costly to verify, while other participation requirements do not lead to meaningful employment outcomes and are overly prescriptive. Utah suggested that we be evaluated on the basis of the state's success in placing our customers in employment . . . [and] this approach would require some flexibility at the state level and the granting of a waiver."

Other states also have highlighted how much time, money and effort is now dedicated to meeting federal paperwork requirements, especially after changes included in the Deficit Reduction Act of 2005. For example, one study in Minnesota found that TANF employment counselors spend more time documenting activities than they spend on providing direct services to help people find work.

The majority's current effort to prevent flexibility through waivers seems in direct conflict with their past support for waivers. For example, in 2002, 2003, and 2005, Republicans brought legislation to the House floor that included a much broader waiver authority than now being permitted by HHS. The non-partisan Congressional Research Service (CRS) has confirmed that all three bills "would have had the effect of allowing TANF work participation standards to be waived."

In terms of HHS' authority to permit demonstration projects, CRS has found that the current HHS waiver initiative is "con-

sistent" with prior practice. The CRS review found that dozens of waivers for demonstration projects have been approved in the past when their subject matter has been referenced in Section 402 of the Social Security Act (just as the Secretary now proposes). CRS also found nothing in the law that bars the Secretary from providing waivers related to employment activities in the TANF program.

Just like a very similar measure from last year, H.R. 890 seems more focused on politics than on policy. On that basis, and because it would impede progress in helping more welfare recipients move into work, we oppose this measure.

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