114TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 114–644

TANF ACCOUNTABILITY AND INTEGRITY IMPROVEMENT ACT

JUNE 28, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 2959]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2959) to prevent States from counting certain expenditures as State spending to reduce TANF work requirements, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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59–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "TANF Accountability and Integrity Improvement Act".

SEC. 2. LIMIT ON COUNTING OF NONGOVERNMENTAL THIRD-PARTY CONTRIBUTIONS AS QUALIFIED STATE SPENDING TO MEET STATE SPENDING REQUIREMENT.

(a) LIMIT ON COUNTING THIRD-PARTY CONTRIBUTIONS.—Section 409(a)(7)(B)(i) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(VI) LIMIT ON COUNTING OF THIRD-PARTY CONTRIBUTIONS.—Such term shall not include the amount (if any) by which—

"(aa) the value of all goods and services provided by a source other than the State or a local government during the fiscal year; exceeds

"(bb) the value of all such goods and services claimed by the State as qualified State expenditures for fiscal year 2016.".

(b) EXCLUSION OF EXPENDITURES FOR THE PROVISION OF MEDICAL SERVICES.—Section 409(a)(7)(B)(i) of such Act (42 U.S.C. 609(a)(7)(B)(i)), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(VII) EXCLUSION OF EXPENDITURES FOR THE PROVISION OF MEDICAL SERVICES.—Such term shall not include any amount expended for the provision of medical services.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 2016.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 2959 as amended, the "TANF Accountability and Integrity Improvement Act," as ordered reported by the Committee on Ways and Means on May 11, 2016, would prevent states from increasing their counting of outside spending as state TANF spending.

B. BACKGROUND AND NEED FOR LEGISLATION

In 1996, Republicans reformed the safety net to better support and reward work. As part of these reforms, the failed New Deal-era Aid to Families with Dependent Children (AFDC) program was replaced with today's Temporary Assistance for Needy Families program (TANF), which established strong requirements for states to help welfare recipients prepare for work and find jobs.

The number of families receiving cash assistance under the TANF program fell by more than 50 percent, and has generally remained low over time. Employment rates of single mothers with children increased by 15 percent through 2007 compared with 1995; while their work rates declined as a result of the 2007–09 recession, they have risen again since 2011 and remain 10 percent higher than before. Child poverty also declined dramatically during this period as more people went to work and earnings increased, and poverty among African American households with children reached record lows. Poverty among female-headed households with children remains lower today than before the 1996 reforms—despite two intervening recessions.

The TANF program has helped shield American families from sinking deeper into poverty by providing temporary assistance that is also linked to stable employment. But it's been at least a decade since any meaningful changes have been made to this law.

Current law requires that states must spend a certain amount of state money (based on past state spending on low-income programs) to receive full federal TANF block grant funds, which is called the state "maintenance of effort" or MOE requirement. States also must engage 50 percent of adults in TANF families in work activities, such as employment, job training, job search, and vocational education. However, recent reports from the nonpartisan Government Accountability Office indicate a rising number of states appear to be counting non-state third-party spending as TANF MOE spending.

For example, a number of states now count volunteer hours as TANF MOE by multiplying volunteer hours by an estimated wage rate and then reporting this as "spending" in the TANF program. This evolution has also resulted in some states reporting significant "excess MOE" spending, which under a 1999 regulation allows states to reduce the share of TANF recipients expected to work in exchange for TANF benefits. This practice also means some states are reducing their state investment in TANF, gaming the intent of the law's requirements that states continue to invest in the program as a condition of receiving federal funds.

C. Legislative History

Background

H.R. 2959, the "TANF Accountability and Integrity Improvement Act," was introduced on July 7, 2015, by Representative Kristi L. Noem, and was referred to the Committee on Ways and Means.

Committee hearings

The Committee began a bipartisan, comprehensive review of the TANF program at the beginning of the Congress, in early January 2015. Over the last fifteen months, the Human Resources Subcommittee held a series of hearings with witnesses ranging from current and former recipients to service providers to employers to researchers. Members of the Human Resources Subcommittee introduced a series of bills focused on smaller provisions within TANF, and then they were compiled into a larger, more comprehensive reauthorization draft bill. That bipartisan draft was distributed for public comment and dozens of stakeholders provided invaluable feedback, some incorporated in H.R. 2959.

On April 30, 2015, the Human Resources Subcommittee held a hearing entitled, *Next Steps for Welfare Reform: Ideas to Improve TANF to Help More Families Find Work and Escape Poverty*. Specifically, witnesses discussed the need to reform the way states used third party spending to count as state spending.

Throughout the Congress, the Human Resources Subcommittee held a series of hearings on reforms to TANF, including discussions on third party spending by states. Those hearings included:

- *Challenges Facing Low-Income Individuals and Families in Today's Economy*, February 11, 2015
- *Expanding Opportunity by Funding What Works: Using Evidence to Help Low-Income Individuals and Families Get Ahead*, March 17, 2015
- *Protecting the Safety Net from Waste, Fraud, and Abuse*, June 3, 2015
- Joint Subcommittee Hearing on *How Our Welfare System Can Discourage Work*, June 25, 2015
- *Welfare Reform Proposals*, July 15, 2015
- *Better Coordinating Welfare Programs to Serve Families in Need*, November 3, 2015
- *Moving America's Families Forward: Lessons Learned from Welfare Reform in Other Countries*, November 17, 2015
- *Getting Incentives Right: Connecting Low-Income Individuals with Jobs*, March 1, 2016

Committee action

The Committee on Ways and Means marked up H.R. 2959, the "TANF Accountability and Integrity Improvement Act," on May 11, 2016. The bill, H.R. 2959, was ordered favorably reported to the House of Representatives as amended by a voice vote (with a quorum being present).

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Present law

No provision.

Explanation of provision

This section contains the short title of the bill, the "TANF Accountability and Integrity Improvement Act."

Reason for change

The Committee believes that the short title reflects the policy actions included in the legislation.

Effective date

The provision is effective on October 1, 2016.

SECTION 2: NO COUNTING OF THIRD-PARTY SPENDING TO MEET STATE SPENDING

Present law

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, P.L. 104–193) created the Temporary Assistance for Needy Families (TANF) block grant by ending and consolidating funding from several predecessor programs. The predecessor programs were matching grant programs with their costs shared by the federal and state governments. The TANF block grant is based on federal funding under the predecessor programs. Under TANF, states were required to continue spending a minimum amount under a maintenance of effort (MOE) requirement. The amount states must spend to meet the MOE requirement is based on the state share of expenditures in TANF's predecessor programs.

Under the MOE requirement, states are required to expend from their own funds at least 75 percent of spending in predecessor programs in FY1994. If a state fails to meet TANF work participation standards, the state spending requirement is increased to 80 percent of historic state expenditures.

Expenditures counted toward the MOE requirement must be for "eligible families," with the following types of expenditures countable toward the requirement: cash assistance, including child support passed-through to the family; child care assistance; educational activities, but restricted to such expenditures on eligible families and not available to the general population; and administrative costs. Additionally, states may count toward the MOE any other expenditure that can be reasonably calculated toward meeting TANF's statutory goals.

The Department of Health and Human Services (HHS) has interpreted the TANF MOE as a cost-sharing requirement, subject to general rules of what expenditure counts toward meeting cost-sharing requirements.[1] These rules are not in TANF statute or regulations, but are in general HHS regulations regarding grant management.[2] Under the general rules for cost sharing, states may count both cash donations by non-federal third parties as well as the value of third party, in-kind contributions. To be counted toward the TANF MOE, such third-party donations must meet the general rules of TANF MOE expenditures: be to or on behalf of eligible families and be of the type of expenditure generally countable toward the MOE.

Federal law also prohibits states from using federal TANF funds to provide medical services. Excluded from this prohibition are pre-pregnancy family planning services. While federal TANF funds cannot be used for medical services, there is no corresponding prohibition on counting medical services toward the TANF state spending MOE requirement. Medical services may be counted if they are for eligible families and otherwise meet the requirements that apply to expenditures accounted toward the MOE.

Explanation of provision

Beginning with Fiscal Year 2017, H.R. 2959 as amended would "freeze" the amount of third-party contributions that a state may claim toward meeting its MOE requirement. It would exclude from the definition of qualified state expenditures counted toward the MOE any third party contributions that exceed the value of third party contributions claimed by the state as MOE expenditures in fiscal year 2016.

The Committee bill would also prohibit states from counting medical services toward the TANF MOE requirement.

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[1] See: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *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.

[2] See: 45 C.F.R. § 92.24.

Reason for change

The Committee believes that, while state practice of claiming third party spending toward the TANF MOE requirement is not technically in violation of current law, states at a minimum should not be able to increase the amount of third party spending they can claim towards the MOE requirement.

Effective date

The provision is effective on October 1, 2016.

SECTION 3: EFFECTIVE DATE

Present law

No provision.

Explanation of provision

This section includes an effective date of October 1, 2016.

Reason for change

The Committee believes it is appropriate to have an effective date of October 1, 2016, i.e. the start of the next fiscal year.

Effective date

The provision is effective on October 1, 2016.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 2959, the "TANF Accountability and Integrity Improvement Act," on May 11, 2016.

The Committee on Ways and Means marked up H.R. 2959, the "TANF Accountability and Integrity Improvement Act," on May 11, 2016. The bill, H.R. 2959, was ordered favorably reported to the House of Representatives as amended by a voice vote (with a quorum being present).

IV. NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new budget authority or tax expenditure budget authority.

V. 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 Committee sets forth the following estimate and comparison prepared by the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 17, 2016.

Hon. KEVIN BRADY,
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. 2959, the TANF Accountability and Integrity Improvement Act.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2959—TANF Accountability and Integrity Improvement Act

Under the Temporary Assistance for Needy Families (TANF) program, states are required to spend a minimum amount of state money under the maintenance of effort (MOE) requirement in order to receive TANF grants. States that meet certain economic criteria and that spend more than the minimum amount can receive additional funding from the TANF contingency fund. Cash donations and the value of in-kind contributions by nonfederal third parties may be counted as state spending for purposes of the MOE. Beginning in 2017, H.R. 2959 would freeze the amount of third-party contributions that a state may claim toward meeting its MOE requirement at the level spent in 2016. This legislation also would prohibit states from counting spending on medical services toward the MOE.

Based on information from the Department of Health and Human Services, CBO assumes that any state that would be affected by the changes under the bill would find other ways to meet its MOE requirement. Furthermore, to the extent that a state could no longer draw down funds from the TANF contingency fund, CBO expects that other states would use those funds instead. Thus, CBO estimates that enacting the legislation would have no significant effect on direct spending. Because enacting this bill could affect direct spending, pay-as-you-go procedures apply. Enacting H.R. 2959 would not affect revenues.

CBO estimates that enacting H.R. 2959 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

The limitations on the ability of states to use cash and in-kind resources from third parties as well as spending for medical services to meet MOE requirements would not be intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). UMRA includes special rules for identifying conditions of aid in large entitlement programs as mandates, but only when states lack authority to amend their financial or programmatic responsibilities. States have significant flexibility in TANF to adjust the structure of the program and meet the requirements of the bill. The bill would not prohibit the use of third-party expenditures, but would limit them to the amount used in 2016. According to the Government Accountability Office, 16 states counted third-party expenditures toward their MOE requirements in 2015, and in recent years as many as 11 states used such expenditures to cover more than 10 percent of their MOE requirement.

The bill contains no private-sector mandates as defined in UMRA.

The CBO staff contact for this estimate is Susanne S. Mehlman (for federal costs) and Leo Lex (for state impacts). This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the description portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to prevent states from increasing their counting of outside spending as state TANF spending.

C. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) 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 bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

D. 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.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

SOCIAL SECURITY ACT

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

* * * * * * *

SEC. 409. PENALTIES.

(a) IN GENERAL.—Subject to this section:

(1) USE OF GRANT IN VIOLATION OF THIS PART.—

(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

(C) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—If the Secretary of Labor finds that an amount paid to an entity under section 403(a)(5)(B) has been used in violation of subparagraph (B) or (C) of section 403(a)(5), the entity shall remit to the Secretary of Labor an amount equal to the amount so used.

(2) FAILURE TO SUBMIT REQUIRED REPORT.—

(A) QUARTERLY REPORTS.—

(i) IN GENERAL.—If the Secretary determines that a State has not, within 45 days after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

(ii) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under clause (i) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

(B) REPORT ON ENGAGEMENT IN ADDITIONAL WORK ACTIVITIES AND EXPENDITURES FOR OTHER BENEFITS AND SERVICES.—

(i) IN GENERAL.—If the Secretary determines that a State has not submitted the report required by section 411(c)(1)(A)(i) by May 31, 2011, or the report required by section 411(c)(1)(A)(ii) by August 31, 2011, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 4 percent of the State family assistance grant.

(ii) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under clause (i) with respect to a report required by section 411(c)(1)(A) if the State submits the report not later than—

(I) in the case of the report required under section 411(c)(1)(A)(i), June 15, 2011; and

(II) in the case of the report required under section 411(c)(1)(A)(ii), September 15, 2011.

(iii) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose a reduction under clause (i) with respect to a fiscal year based on the degree of noncompliance.

(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to the applicable percentage of the State family assistance grant.

(B) APPLICABLE PERCENTAGE DEFINED.—As used in subparagraph (A), the term "applicable percentage" means, with respect to a State—

(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

(II) 21 percent.

(C) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance, and may reduce the penalty if the noncompliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(5)) during the fiscal year or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances.

(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without re-

gard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for a fiscal year by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

(B) DEFINITIONS.—As used in this paragraph:

(i) QUALIFIED STATE EXPENDITURES.—

(I) IN GENERAL.—The term "qualified State expenditures" means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

(aa) Cash assistance, including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section 457(a)(1)(B) and disregarded in determining the eligibility of the family for, and the amount of, such assistance.

(bb) Child care assistance.

(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

(ee) Any other use of funds allowable under section 404(a)(1).

(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this section; or (bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).

(IV) ELIGIBLE FAMILIES.—As used in subclause (I), the term "eligible families" means families eligible for assistance under the State program funded under this part, families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term "qualified State expenditures" includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).

(ii) APPLICABLE PERCENTAGE.—The term "applicable percentage" means 80 percent (or, if the State meets the requirements of section 407(a), 75 percent).

(iii) HISTORIC STATE EXPENDITURES.—The term "historic State expenditures" means, with respect to a State, the lesser of—

(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

(II) the amount which bears the same ratio to the amount described in subclause (I) as—

(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

(iv) EXPENDITURES BY THE STATE.—The term "expenditures by the State" does not include—

(I) any expenditure from amounts made available by the Federal Government;

(II) any State funds expended for the medicaid program under title XIX;

(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and 1995, the Secretary shall use information which was reported by the State on ACF Form 231 or (in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section 403(a)(1)(D).

(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

(II) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

(III) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D (other than paragraph (24), or subparagraph (A) or (B)(i) of paragraph (27), of section 454); and

(ii) that, with respect to the succeeding fiscal year—

(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable;

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

(B) AMOUNT OF REDUCTIONS.—The reductions required under subparagraph (A) shall be—

(i) not less than 1 nor more than 2 percent;

(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or

(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

(C) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of this section and section 452(a)(4), a State determined as a result of an audit—

(i) to have failed to have substantially complied with 1 or more of the requirements of part D shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or

(ii) to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 452(g)(2)) or other performance measures that may be established by the Secretary.

(9) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.—If the Secretary determines that a State has not complied with section 408(a)(7) during a fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

(10) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the qualified State expenditures (as defined in paragraph (7)(B)(i) (other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part for the fiscal year are less than 100 percent of historic State expenditures (as defined in paragraph (7)(B)(iii) of this subsection), excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately suc-

ceeding fiscal year by the total of the amounts so paid to the State that the State has not remitted under section 403(b)(6).

(11) FAILURE TO MAINTAIN ASSISTANCE TO ADULT SINGLE CUSTODIAL PARENT WHO CANNOT OBTAIN CHILD CARE FOR CHILD UNDER AGE 6.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has violated section 407(e)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(12) REQUIREMENT TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS; PENALTY FOR FAILURE TO DO SO.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions. If the State fails during such succeeding fiscal year to make the expenditure required by the preceding sentence from its own funds, the Secretary may reduce the grant payable to the State under section 403(a)(1) for the fiscal year that follows such succeeding fiscal year by an amount equal to the sum of—

(A) not more than 2 percent of the State family assistance grant; and

(B) the amount of the expenditure required by the preceding sentence.

(13) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—If a grant is made to a State under section 403(a)(5)(A) for a fiscal year and paragraph (7) of this subsection requires the grant payable to the State under section 403(a)(1) to be reduced for the immediately succeeding fiscal year, then the Secretary shall reduce the grant payable to the State under section 403(a)(1) for such succeeding fiscal year by the amount of the grant made to the State under section 403(a)(5)(A) for the fiscal year.

(14) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(15) PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(16) PENALTY FOR FAILURE TO ENFORCE SPENDING POLICIES.—

(A) IN GENERAL.—If, within 2 years after the date of the enactment of this paragraph, any State has not reported to the Secretary on such State's implementation of the policies and practices required by section 408(a)(12), or the Secretary determines, based on the information provided in State reports, that any State has not implemented and maintained such policies and practices, the Secretary shall reduce, by an amount equal to 5 percent of the State family assistance grant, the grant payable to such State under section 403(a)(1) for—

(i) the fiscal year immediately succeeding the year in which such 2-year period ends; and

(ii) each succeeding fiscal year in which the State does not demonstrate that such State has implemented and maintained such policies and practices.

(B) REDUCTION OF APPLICABLE PENALTY.—The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance of the State.

(C) STATE NOT RESPONSIBLE FOR INDIVIDUAL VIOLATIONS.—Fraudulent activity by any individual in an attempt to circumvent the policies and practices required by section 408(a)(12) shall not trigger a State penalty under subparagraph (A).

(b) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under paragraph (6), (7), (8), (10), (12), or (13) of subsection (a) and, with respect to the penalty under paragraph (2)(B) of subsection (a), shall only apply to the extent the Secretary determines that the reasonable cause for failure to comply with a requirement of that paragraph is as a result of a one-time, unexpected event, such as a widespread data system failure or a natural or man-made disaster.

(c) CORRECTIVE COMPLIANCE PLAN.—

(1) IN GENERAL.—

(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct or discontinue, as appropriate, the violation and how the State will insure continuing compliance with this part.

(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct or discontinue, as appropriate, the violation.

(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

(D) ACCEPTANCE OF PLAN.—A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

(2) EFFECT OF CORRECTING OR DISCONTINUING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects or discontinues, as appropriate, the violation pursuant to the plan.

(3) EFFECT OF FAILING TO CORRECT OR DISCONTINUE VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct or discontinue, as appropriate, the violation pursuant to a State corrective compliance plan accepted by the Secretary.

(4) INAPPLICABILITY TO CERTAIN PENALTIES.—This subsection shall not apply to the imposition of a penalty against a State under paragraph (2)(B), (6), (7), (8), (10), (12), (13), or (16) of subsection (a).

(d) LIMITATION ON AMOUNT OF PENALTIES.—

(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this section for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

*   *   *   *   *   *   *

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

* * * * * * *

SEC. 409. PENALTIES.

(a) IN GENERAL.—Subject to this section:

(1) USE OF GRANT IN VIOLATION OF THIS PART.—

(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

(C) PENALTY FOR MISUSE OF COMPETITIVE WELFARE-TO-WORK FUNDS.—If the Secretary of Labor finds that an amount paid to an entity under section 403(a)(5)(B) has been used in violation of subparagraph (B) or (C) of section 403(a)(5), the entity shall remit to the Secretary of Labor an amount equal to the amount so used.

(2) FAILURE TO SUBMIT REQUIRED REPORT.—

(A) QUARTERLY REPORTS.—

(i) IN GENERAL.—If the Secretary determines that a State has not, within 45 days after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

(ii) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under clause (i) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

(B) REPORT ON ENGAGEMENT IN ADDITIONAL WORK ACTIVITIES AND EXPENDITURES FOR OTHER BENEFITS AND SERVICES.—

(i) IN GENERAL.—If the Secretary determines that a State has not submitted the report required by section 411(c)(1)(A)(i) by May 31, 2011, or the report required by section 411(c)(1)(A)(ii) by August 31, 2011, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 4 percent of the State family assistance grant.

(ii) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under clause (i) with respect to a report required by section 411(c)(1)(A) if the State submits the report not later than—

(I) in the case of the report required under section 411(c)(1)(A)(i), June 15, 2011; and

(II) in the case of the report required under section 411(c)(1)(A)(ii), September 15, 2011.

(iii) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose a reduction under clause (i) with respect to a fiscal year based on the degree of noncompliance.

(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to the applicable percentage of the State family assistance grant.

(B) APPLICABLE PERCENTAGE DEFINED.—As used in subparagraph (A), the term "applicable percentage" means, with respect to a State—

(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

(II) 21 percent.

(C) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance, and may reduce the penalty if the noncompliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(5)) during the fiscal year or if the noncompliance is due to extraordinary circumstances such as a natural disaster or regional recession. The Secretary shall provide a written report to Congress to justify any waiver or penalty reduction due to such extraordinary circumstances.

(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for a fiscal year by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

(B) DEFINITIONS.—As used in this paragraph:

(i) QUALIFIED STATE EXPENDITURES.—

(I) IN GENERAL.—The term "qualified State expenditures" means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

(aa) Cash assistance, including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section 457(a)(1)(B) and disregarded in determining the eligibility of the family for, and the amount of, such assistance.

(bb) Child care assistance.

(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

(ee) Any other use of funds allowable under section 404(a)(1).

(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this section; or

(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).

(IV) ELIGIBLE FAMILIES.—As used in subclause (I), the term "eligible families" means families eligible for assistance under the State program funded under this part, families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term "qualified State expenditures" includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).

(VI) LIMIT ON COUNTING OF THIRD-PARTY CONTRIBUTIONS.—Such term shall not include the amount (if any) by which—

(aa) the value of all goods and services provided by a source other than the State or a local government during the fiscal year; exceeds

(bb) the value of all such goods and services claimed by the State as qualified State expenditures for fiscal year 2016.

(VII) EXCLUSION OF EXPENDITURES FOR THE PROVISION OF MEDICAL SERVICES.—Such term shall not include any amount expended for the provision of medical services.

(ii) APPLICABLE PERCENTAGE.—The term "applicable percentage" means 80 percent (or, if the State meets the requirements of section 407(a), 75 percent).

(iii) HISTORIC STATE EXPENDITURES.—The term "historic State expenditures" means, with respect to a State, the lesser of—

(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

(II) the amount which bears the same ratio to the amount described in subclause (I) as—

(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

(iv) EXPENDITURES BY THE STATE.—The term "expenditures by the State" does not include—

(I) any expenditure from amounts made available by the Federal Government;

(II) any State funds expended for the medicaid program under title XIX;

(III) any State funds which are used to match Federal funds provided under section 403(a)(5); or

(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and 1995, the Secretary shall use information which was reported by the State on ACF Form 231 or (in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section 403(a)(1)(D).

(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

(A) IN GENERAL.—If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4), that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary;

(II) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C)(i) that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; or

(III) on the basis of the results of an audit or audits conducted under section 452(a)(4)(C) that a State failed to substantially comply with 1 or more of the requirements of part D (other than paragraph (24), or subparagraph (A) or (B)(i) of paragraph (27), of section 454); and

(ii) that, with respect to the succeeding fiscal year—

(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable;

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

(B) AMOUNT OF REDUCTIONS.—The reductions required under subparagraph (A) shall be—

(i) not less than 1 nor more than 2 percent;

(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or

(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

(C) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of this section and section 452(a)(4), a State determined as a result of an audit—

(i) to have failed to have substantially complied with 1 or more of the requirements of part D shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or

(ii) to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 452(g)(2)) or other performance measures that may be established by the Secretary.

(9) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.—If the Secretary determines that a State has not complied with section 408(a)(7) during a fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

(10) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the qualified State expenditures (as defined in paragraph (7)(B)(i) (other than the expenditures described in subclause (I)(bb) of that paragraph)) under the State program funded under this part for the fiscal year are less than 100 percent of historic State expenditures (as de-

fined in paragraph (7)(B)(iii) of this subsection), excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the total of the amounts so paid to the State that the State has not remitted under section 403(b)(6).

(11) FAILURE TO MAINTAIN ASSISTANCE TO ADULT SINGLE CUSTODIAL PARENT WHO CANNOT OBTAIN CHILD CARE FOR CHILD UNDER AGE 6.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has violated section 407(e)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(12) REQUIREMENT TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS; PENALTY FOR FAILURE TO DO SO.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions. If the State fails during such succeeding fiscal year to make the expenditure required by the preceding sentence from its own funds, the Secretary may reduce the grant payable to the State under section 403(a)(1) for the fiscal year that follows such succeeding fiscal year by an amount equal to the sum of—

(A) not more than 2 percent of the State family assistance grant; and

(B) the amount of the expenditure required by the preceding sentence.

(13) PENALTY FOR FAILURE OF STATE TO MAINTAIN HISTORIC EFFORT DURING YEAR IN WHICH WELFARE-TO-WORK GRANT IS RECEIVED.—If a grant is made to a State under section 403(a)(5)(A) for a fiscal year and paragraph (7) of this subsection requires the grant payable to the State under section 403(a)(1) to be reduced for the immediately succeeding fiscal year, then the Secretary shall reduce the grant payable to the State under section 403(a)(1) for such succeeding fiscal year by the amount of the grant made to the State under section 403(a)(5)(A) for the fiscal year.

(14) PENALTY FOR FAILURE TO REDUCE ASSISTANCE FOR RECIPIENTS REFUSING WITHOUT GOOD CAUSE TO WORK.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(e) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(15) PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—

(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(16) PENALTY FOR FAILURE TO ENFORCE SPENDING POLICIES.—

(A) IN GENERAL.—If, within 2 years after the date of the enactment of this paragraph, any State has not reported to the Secretary on such State's implementation of the policies and practices required by section 408(a)(12), or the Secretary determines, based on the information provided in State reports, that any State has not implemented and maintained such policies and practices, the Secretary shall reduce, by an amount equal to 5 percent of the State family assistance grant, the grant payable to such State under section 403(a)(1) for—

(i) the fiscal year immediately succeeding the year in which such 2-year period ends; and

(ii) each succeeding fiscal year in which the State does not demonstrate that such State has implemented and maintained such policies and practices.

(B) REDUCTION OF APPLICABLE PENALTY.—The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance of the State.

(C) STATE NOT RESPONSIBLE FOR INDIVIDUAL VIOLATIONS.—Fraudulent activity by any individual in an attempt to circumvent the policies and practices required by section 408(a)(12) shall not trigger a State penalty under subparagraph (A).

(b) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under paragraph (6), (7), (8), (10), (12), or (13) of subsection (a) and, with respect to the penalty under paragraph (2)(B) of subsection (a), shall only apply to the ex-

tent the Secretary determines that the reasonable cause for failure to comply with a requirement of that paragraph is as a result of a one-time, unexpected event, such as a widespread data system failure or a natural or man-made disaster.

(c) CORRECTIVE COMPLIANCE PLAN.—

(1) IN GENERAL.—

(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct or discontinue, as appropriate, the violation and how the State will insure continuing compliance with this part.

(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct or discontinue, as appropriate, the violation.

(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

(D) ACCEPTANCE OF PLAN.—A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

(2) EFFECT OF CORRECTING OR DISCONTINUING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects or discontinues, as appropriate, the violation pursuant to the plan.

(3) EFFECT OF FAILING TO CORRECT OR DISCONTINUE VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct or discontinue, as appropriate, the violation pursuant to a State corrective compliance plan accepted by the Secretary.

(4) INAPPLICABILITY TO CERTAIN PENALTIES.—This subsection shall not apply to the imposition of a penalty against a State under paragraph (2)(B), (6), (7), (8), (10), (12), (13), or (16) of subsection (a).

(d) LIMITATION ON AMOUNT OF PENALTIES.—

(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this section for a prior fiscal year, the Secretary shall apply any re-

maining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

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VIII. ADDITIONAL AND DISSENTING VIEWS

ADDITIONAL VIEWS

This legislation represents a missed opportunity to seriously address the ongoing challenge of poverty in America.

Over the past 50 years, Congress has enacted laws that lifted tens of millions of Americans out of poverty, making our anti-poverty programs ten times more effective than they were when the War on Poverty began.

But nearly 47 million Americans are still living in poverty, including one in five children. These families, and the millions of families at risk of falling into poverty, face impossible choices every day: transportation to work, child care, school supplies, food for dinner, and a place to live. They worry about what they will do if they or their children get sick and they have no paid leave at work, or how they will get to work if the car breaks down. And they have nothing left at the end of the month to save for college or retirement.

A serious attempt to fight poverty would include action on the basic supports needed to support work and sustain employment—paid leave, access to quality child care, equal pay for women and a decent minimum wage, and an Earned Income Tax Credit that reaches all workers who need it.

A serious attempt to fight poverty would include action on affordable housing, access to early childhood education, and an effort to make college more affordable to help struggling families raise their children and help them toward a better life.

A serious attempt to fight poverty would build on successful programs like the Supplemental Nutrition Assistance Program (SNAP), which lifts nearly 10 million Americans out of poverty, and the Social Services Block Grant (SSBG), which provides critical help to nearly 30 million Americans. And it would build on the Affordable Health Care, which has given families long-awaited peace of mind about high medical bills.

The millions of families that are struggling deserve more than this legislation.

SANDER M. LEVIN,
Ranking Member.

DISSENTING VIEWS

What began as a legislative step forward has become a step backward. What did some modest good, now does harm. As introduced, the TANF Accountability and Integrity Improvement Act (H.R. 2959) would have closed a loophole that a few states have created and exploited to avoid providing their state match for the federal TANF block grant. This loophole unfairly misapplies third-party spending as if it were state spending.

The non-partisan General Accountability Office (GAO) has criticized this wrongful approach, which shortchanges poor children and their parents. I fully support the bill's complete closure of this loophole that only a few states exploit to avoid providing their fair share of support for moving their impoverished residents from welfare to work.

Unfortunately, only hours prior to the Committee markup, this bill was amended to do the opposite of what it originally would have accomplished. As amended, it legalizes this unfair loophole by grandfathering in current offenders. Now it does little more than prevent other states from following the leadership of a few pioneers in abuse. Why reward those states who balance their books on the backs of those least able to bear the burden?

According to the GAO, Georgia is the chief offender, with nearly 60 percent of its TANF contributions coming from private entities. Not only is it not making its proper match to access federal funds, but Georgia also consistently ignores the needs of its poorest citizens. For every TANF dollar, Georgia uses 80 cents for in ways that ignore the core purposes of TANF—work, direct assistance and child care.

The Department of Health and Human Services (HHS) should have already initiated action to close this unjustified loophole. As amended, the bill would now prevent HHS from correcting this abuse. It should be rejected.

LLOYD DOGGETT.
JIM MCDERMOTT.

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