

TOUGHENING TANF

How Much? And How Attainable?

An Analysis of the Participation Requirements in the House and Senate Bills
to Reauthorize the Temporary Assistance for Needy Families Program,
and of Likely State Responses to Them

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Welfare reform was codified by the Temporary Assistance for Needy Families (TANF) program, passed in 1996. TANF was authorized for six years and was scheduled for reauthorization in 2002. But deep-seated and unresolved questions about the future direction of welfare reform—as well as partisan positioning in anticipation of the 2002 congressional elections—stalled the reauthorization process. The process began again in 2003, but the legislative stalemate has pushed action into 2004, if not later.

From the beginning, a major sticking point has been the proposed increase in TANF's participation requirements (especially because more educational activities were not included).¹ Essentially, the position of the Bush administration and many congressional Republicans has been that, because so little work or even work-related activities are being required under TANF (despite popular impression),² the law should be amended to raise both the required participation rate and the number of required hours of participation.

Another point of major disagreement has been over the amount of additional funding that should go to child care. Congressional Democrats and child care advocates have pushed for expanded funding, by as much as 50 percent or more. Republicans have argued that much less (if any) additional funding is needed, especially given continuing surpluses under the TANF block grant. (This issue is only briefly discussed in this paper, as an implication of our findings.)

On February 13, 2003, the U.S. House of Representatives passed a bill reflecting most of the administration's proposals, the Personal Responsibility, Work, and Family Promotion Act of 2003 (H.R. 4).³ In the Senate, a relatively similar bill called the Personal Responsibility and Individual Development for Everyone (PRIDE) Act was reported out of the Finance Committee

¹A word on terminology: For their own purposes, both those in favor of and those against H.R. 4 (and, to a lesser extent, S. XXX) talk about its new or increased “work requirements.” As we shall see, however, many activities besides work can satisfy H.R. 4 and S. XXX's new participation requirements. Hence, this paper does not use the phrase “work requirements,” but, rather, “participation requirements.”

²See Douglas J. Besharov, “Testimony,” before U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Human Resources, *Implementation of Welfare Reform Work Requirements and Time Limits*, 107th Cong., 2nd sess., March 7, 2002, available from: <http://www.welfareacademy.org/pubs/testimony-030702.pdf>, accessed April 17, 2003.

³U.S. Congress, House of Representatives, *Personal Responsibility, Work, and Family Promotion Act of 2003*, H.R. 4, 108th Cong., 1st sess. (February 4, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h4rs.txt.pdf, accessed December 30, 2003.

on September 10, 2003.⁴ As of this writing, it has been reported as a substitute for H.R. 4 and does not have a bill number, so we refer to it as S. XXX.

This paper examines the major provisions of both H.R. 4 and S. XXX that attempt to toughen participation requirements. It describes the likely impact of new participation requirements that both bills add to TANF, describes how states could mitigate their impact, and attempts to predict how states would respond to these provisions.

A note about the dates mentioned in the paper. This paper is being written in early 2004 about two bills that were written in contemplation of passage in 2003. (H.R. 4 passed the House on February 13, 2003, and S. XXX was reported out of the Senate Finance Committee on October 3, 2003.) The earliest that Congress is likely to pass a final bill reauthorizing TANF is summer 2004. Whenever the bill passes, the Congress will probably move forward the effective dates of various provisions. However, because the actual effective dates of these provisions do not affect our substantive conclusions (as long as their relation to each other remains the same), we use the effective dates as specified in both bills.

A Real Requirement?

On the surface, both bills sharply expand participation requirements. TANF's current requirement is twenty to thirty hours per week of "participation" on the part of about 50 percent of a state's caseload.⁵ In 2008, H.R. 4 would seem to require forty hours per week from 70 percent of the caseload, and S. XXX would seem to require twenty-four to thirty-nine hours per week from 70 percent of the caseload.⁶

There are two polar views of these proposed participation requirements. On one side are those, supporters and opponents alike, who emphasize the apparent increases over current law. That is what President Bush did when he commented on H.R. 4:

The House bill set an ambitious goal for states to have 70 percent of the welfare recipients working within a five-year period of time. We encourage them to think that way because we believe in setting a high bar. We believe in the best. We don't accept mediocrity. Some say it's asking too much. But a lot of those voices were the same ones that said the 1996 law was flawed. In other words, they have low – low expectations for what is

⁴U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

⁵The caseload as a whole had to meet the 50 percent requirement, but two-parent families faced a participation requirement of 90 percent.

⁶These requirements are discussed in greater detail in Appendix A-1.

possible in this society.⁷

Similarly, but on the other side of the political fence, Mark Greenberg and Hedieh Rahmanou, of the Center for Law and Social Policy (CLASP), complained about H.R. 4:

The proposed 40-hour requirement does not reflect the approach most states have chosen to take in their welfare reform efforts, is not supported by the research, would involve significant costs without corresponding benefits, and cannot be justified by asserting that a 40-hour work week is the average work week for other mothers or workers.⁸

Others, again both supporters and opponents, argue that states will have enough flexibility to avoid the new requirements by simply shifting enough families to “separate state programs” (that is, programs funded with state funds that are not subject to TANF’s participation requirements). Concerning H.R. 4, for example, Sheila Dacey and Donna Wong of the Congressional Budget Office (CBO) wrote: “CBO expects states would instead partially or fully avoid these costs by moving families to separate state programs or averting the requirements by other means.”⁹ (The CBO came to the same conclusion concerning S. XXX.)¹⁰

Clearly, the structure of the TANF block grant would enable states to avoid *all* additional participation requirements contained in H.R. 4 and S. XXX through the simple expedient of creating a separate state program. (Families in such programs, which can be funded by either state monies, TANF Maintenance of Effort funds, or even the TANF block grant,¹¹ are exempt from federal participation requirements as well as the federal time limit on benefits.) But would states actually go that far? And, if so, under what conditions? The policy choice for the states was

⁷White House, “President Calls for Action on Welfare Reform: Remarks by the President to Welfare-To-Work Graduates,” news release, January 14, 2003, available from: <http://www.whitehouse.gov/news/releases/2003/01/20030114-6.html>, accessed January 21, 2003.

⁸Mark Greenberg and Hedieh Rahmanou, *Imposing a 40-Hour Requirement Would Hurt State Welfare Reform Efforts* (Washington, DC: Center for Law and Social Policy, February 12, 2003), p. 5, available from: http://www.clasp.org/DMS/Documents/1045077554.68/40_hours.pdf, accessed April 17, 2003, stating on p. 1 that “the 40-hour requirement would make it harder for states to run effective employment programs; would force states to misallocate limited TANF and child care dollars; ignores the fact that some parents are caring for ill or disabled family members; and does not acknowledge that the average work week is less than 40 hours for mothers with school-age and younger children.”

⁹Sheila Dacey and Donna Wong, “Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003,” memorandum to interested parties, May 8, 2003.

¹⁰U.S. Congress, Congressional Budget Office, “Potential Cost to States of Meeting Proposed Work Requirements: Based on Senate Finance mark-up documents and clarifications by staff,” unpublished cost estimate, September 10, 2003.

¹¹See Appendix A-9.

captured by CBO Director Douglas Holtz-Eakin, who concluded that H.R. 4's participation requirements would not constitute an unfunded mandate on the states:

The Unfunded Mandates Reform Act (UMRA) specifies that increased conditions of assistance or caps on federal funding in large entitlement grant programs such as TANF are to be considered intergovernmental mandates only if state, local, or tribal governments lack authority to change their financial or programmatic responsibilities in order to continue providing required services. Because of the broad flexibility generally afforded states under the TANF program to structure the program and determine benefits, the new requirements in H.R. 4 would not be intergovernmental mandates as defined in UMRA.

The bill could, however, significantly affect the ways states administer the program and provide benefits to beneficiaries. The new work requirements in particular could result in additional costs to states for administrative support, transportation assistance, child care and worker supervision. Last year, CBO estimated that these costs could range from \$8 billion to \$11 billion over the 2003-2007 period, assuming states took no action to reduce or avoid such costs. However, CBO expects states to avoid most or all of those costs by moving many nonworking families into separate state programs, which would not be subject to the new requirements.¹²

In other words, the new participation requirements will only be as real as the states want them to be.

The CBO predicted that, in response to H.R. 4, states will "employ strategies" that "effectively reduce the new requirements."¹³ Similarly, in regard to S. XXX, the CBO predicted that states will adopt strategies that "reduce the number of families subject to the requirements and increase the percentage of families remaining in the program that meet the requirements."¹⁴

¹²Douglas Holtz-Eakin, Director, U.S. Congress, Congressional Budget Office, letter to William B. Thomas, Chairman, Committee on Ways and Means, U.S. House of Representatives, February 13, 2003, available from: <http://www.cbo.gov/showdoc.cfm?index=4061&sequence=0>, accessed March 13, 2003.

¹³U.S. Congress, Congressional Budget Office, *Cost Estimate: H.R. 4090: Personal Responsibility, Work, and Family Promotion Act of 2002, As ordered reported by the House Committee on Ways and Means on May 2, 2002* (Washington, DC: U.S. Congressional Budget Office, May 13, 2002), pp. 7-8, available from: <ftp://ftp.cbo.gov/34xx/doc3428/HR4090.pdf>, accessed December 30, 2003, stating: "Because the new requirements would be difficult for states to meet, CBO expects states would need to employ strategies such as moving nonworking families into separate state programs to effectively reduce the new requirements. For example, under current law, states that fail to meet participation requirements, particularly the higher requirements applying to two-parent families, set up separate state programs to serve those families. States can count funds they spend in separate state programs toward their maintenance of effort requirement in TANF, but families served under those programs do not count in the work participation rate."

¹⁴U.S. Congress, Congressional Budget Office, "Budget Effects," in U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, p. 70, available from:

Some people think this means that states will adopt whatever tactics are necessary to avoid the bite of participation requirements. The key word, however, is bite. We think the state calculus will be complex, because:

- Most state officials believe in welfare reform, including higher rates of participation, and would be naturally sympathetic to raising participation rates.
- Even if unsympathetic to high participation rates, most state officials will not want to appear to undermine or eviscerate welfare reform.
- Most state officials will select an approach that is among the least expensive and easiest to implement.
- But if the requirements seem impossible to meet or unduly onerous, most state officials will seek to avoid or escape them—even when that means taking evasive action.

On this basis, we think that most state officials will make a good-faith attempt to implement either H.R. 4, S. XXX, or the resulting compromise bill—unless doing so seems impossible or too onerous. Hence, a first-order issue is to determine how difficult it will be to meet the bills’ additional participation requirements. If they seem too great, states will probably seek ways around them, but if they seem attainable without great additional expense and administrative or programmatic disruption, states will probably try to implement them.

Our “Participation Rate Estimator”

To estimate the size of the new participation requirements that H.R. 4 and S. XXX would place on states, we created a “Participation Rate Estimator,” essentially a spreadsheet that models the impacts of various policy choices embedded in both bills.

Using the estimator, we performed two analyses. In the first, we estimated participation rates for the composite national caseload [based on 2001 data submitted to U.S. Department of Health and Human Services (HHS) by the states]. We conduct this analysis to judge how much difference, in toto, the proposed new requirements would make compared to current practices. But many states would fall below (or above) the national average. Hence, in our second analysis, we calculated state participation rates.

But first, a few words about the estimator.

Measured versus real increases in required participation. Although the political

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

debate has swirled around the 70 percent participation requirement established by both bills, in fact, the nature of the TANF block grant and a number of new provisions (in both bills) have the effect of lowering (if not erasing) the burden states would face. Our estimator applies the provisions in the bills that states can use to raise measured participation—without expanding services, spending, or even actual participation. They are:

1. Adopting a full-family sanction (required by H.R. 4 but not S. XXX), or applying the post-sanction exclusion (for S. XXX).
2. Excluding families in their first month of assistance who are not countable toward participation requirements.
3. Excluding families with a child under age one who are not countable toward participation requirements.
4. Requiring job search activities at application (for up to three months under H.R. 4 and four and one half months under S. XXX).¹⁵
5. Using the three-month-activity provisions of both bills to claim credit for activities already taking place or other easy-to-establish activities.
6. Establishing separate state programs for work-limited recipients, for recipients who reach the state or federal time limit, and possibly for other groups that could reasonably be excluded from participation requirements (such as, under H.R. 4, those in postsecondary education).

Our estimator is built around the assumption that states will take these actions (although it allows the assumption to be modified or rejected). The foregoing order of actions was chosen because state officials will probably think through their options in that order.

Our estimator also allows users to enter their estimates of caseload characteristics and participation expansions, and then applies these estimates to see when participation requirements are met.

Composite national results. Our estimator is designed to be applied to individual state programs, but we use it first to produce a stylized estimate of national participation rates. By applying likely state decisions contained in the estimator to national data, we are able to estimate

¹⁵We assume that most states would use H.R. 4 and S. XXX's three-month-activity provisions to require job search at application, because that is an effective, yet low-cost activity. Both bills, however, would allow states to count a wide range of otherwise noncountable activities for three months in any twenty-four-month period. That would not materially change the calculation.

the impact of both bills on the “composite national caseload.” We use the results as a shorthand way to describe the approximate impact of each bill and its individual provisions.

We start by estimating the national “base” participation rate; that is, the participation rate that the states start with under either bill. We calculate it by applying H.R. 4’s and S. XXX’s proposed rules (but none of their adjustments or exclusions, except S. XXX’s proportional participation credit, under which all recipients who satisfy the participation requirements are also assumed to qualify for the maximum extra credit amount). For this purpose, we use data for 2001 submitted to HHS by the states. This is the most recent year for which sufficiently detailed national data are available.

Using modestly generous assumptions, we find that the national base participation rate would be 33 percent under H.R. 4 and 36 percent under S. XXX. (As described below, some states have higher base participation rates and some have lower ones.)

Our estimates probably understate the base participation rate because they do not include all recipients who could be counted or all current activities that would be countable under either bill. For example, the estimates do not include two-parent families that were transferred to separate state programs to avoid TANF’s higher two-parent participation requirement, but who would probably be shifted back to TANF under H.R. 4 or S. XXX (because they generally have a higher participation rate than single-parent families). Our estimates also do not include families participating in countable activities who did not have enough hours to be counted toward the participation requirements (about 17 percent of the adult caseload), but who represent a potential group for easy expansion; many of these recipients might need only a few more hours of activity per week to become countable participants. Finally, our estimates do not include current activities that are not reported to HHS because they are either not countable under TANF or because the state did not bother to report them because compliance with participation requirements had already been established. (Otherwise, we might have counted such activities as three-month activities.)

In any event, we then take these current levels of participation and, while assuming a flat national caseload (a major assumption explored below), we apply the combination of both bills’ authorized adjustments and exclusions to participation requirements, the still-potent caseload reduction credit under H.R. 4 or the new employment credit under S. XXX, the use of independent job search, and the creation of reasonable separate state programs. We find that doing so would result in participation rates high enough that the national composite caseload would satisfy the proposed new participation requirements.

The following summarizes our findings and conclusions for the composite national caseload. The impact of each major action is indicated on table 1, but, because their individual impact is somewhat dependent on its order in the calculation, we also present its independent effect; that is, the percentage point impact of the action if it were the only action taken. [See also figure 1, “Cumulative Impact of Likely State Responses to H.R. 4 and S. XXX (2008).”]

A note on our calculations: Throughout this paper, we present our estimates of the cumulative participation rate after the application of various provisions of both bills. In presenting these rates, we start with the base participation rate and immediately add the impact of H.R. 4's caseload reduction credit and S. XXX's employment credit, as appropriate. We do so for clarity of exposition, even though, technically, both credits actually reduce the required participation rate. For all intents and purposes, however, that is the equivalent of raising participation rates, and adding the percentage point impact of the credits to the participation rates makes it easier to track their impact in relation to the 70 percent required participation rate. (This is especially true for H.R. 4's caseload reduction credit, which varies in size at different points in our analysis.)

- **Claim participation rate credits** under both bills. Doing so would also help most states meet the new participation requirements without increasing services or spending.
 - > Under H.R. 4, the “*caseload reduction credit*” would continue, at least through 2005, to reduce required participation rates enough to allow most states to satisfy the bill's new requirements without actual increases in participation. In subsequent years, the creation of separate state programs could trigger additional credits that would allow most states to satisfy the participation requirements, at least through 2008. H.R. 4 would also create a “*superachiever credit*” that would reduce the required participation rate in about seventeen states, in many cases enough to satisfy the bill's new requirements. We estimate that, by itself, the caseload reduction credit triggered by the separate state programs mentioned below would lower the required participation rate by about 13 percentage points in 2008 (or, as we present the effect in this paper, raise the participation rate by about 13 percentage points).
 - > S. XXX would substitute an “*employment credit*” for the current caseload reduction credit, which would effectively reduce the required participation rate for all states from 70 percent to 50 percent in 2008 (or, as we present the effect in this paper, raise the participation rate by 20 percentage points). This also could be enough for many states to satisfy the new requirements without any increases in participation.
- **Apply authorized adjustments, exclusions, and exemptions**, including the optional exclusions for families in the first month of assistance and for those with a child under age one, and, under H.R. 4, the required full-family sanction and, under S. XXX, the exclusion of families with an adult subject to a work-related sanction (for up to three months a year). Doing so would, if fully implemented, raise the national participation rate to about 45 percent under H.R. 4 and about 67 percent under S. XXX (which includes a 20 percentage point employment credit). (This, too, would be accomplished without any real increase in services or spending.)
- **Mandate at least independent job search** for all new cases. States could claim

participation credit for assigning applicants or recipients to job search for specified periods of time pursuant to S. XXX's specific provision on the subject and the more general three-month-activity provisions of both bills. Under applicable precedents, states would not need to provide any services as part of the job search for this to be a countable activity (often called "independent job search"). Doing so would raise measured participation rates to about 49 percent under H.R. 4 and about 77 percent under S. XXX (which includes a 20 percentage point employment credit). (Again, this would be accomplished without any real increase in services or spending.)

- **Use the three-month-activity provisions** of both bills to claim credit for additional activities already taking place, or other easy-to-establish activities. We do not model S. XXX's additional three-month-activity provision because we think that few if any states will use it; all states can more easily achieve the required participation rate through the other provisions in the bill. Doing so would raise measured participation rates to about 50 percent under H.R. 4 and about 80 percent under S. XXX (which includes a 20 percentage point employment credit).
- **Create separate state programs** for recipients with work limitations (about 15 percent of the national caseload with an adult present), recipients hitting the five-year time limit on federal benefits and not countable toward participation requirements (by 2008, about 8 percent of the national caseload with an adult present) and, perhaps for other groups, such as recipients receiving education and training beyond what would be countable (about 3 to 6 percent of the national caseload with an adult present). States could easily (and defensibly) create such programs. The first two, alone, would raise measured participation rates to about 84 percent under H.R. 4 (which includes a 13 percentage point caseload reduction credit) and about 102 percent under S. XXX (which includes a 20 percentage point employment credit).

Thus, our main conclusion is that—assuming a flat national caseload (a major assumption explored below)—the combination of current levels of participation, the still-potent caseload reduction credit under H.R. 4 or the new employment credit under S. XXX, both bills' authorized adjustments and exclusions to participation requirements, the use of independent job search and the three-month-activity provisions, and the creation of reasonable separate state programs would result in a participation rate for the composite national caseload in 2008 that would exceed the requirements of both H.R. 4 and S. XXX.

- *Under H.R. 4*, these steps would raise the measured participation rate of the composite national caseload from about 33 percent to about 84 percent (which includes a 13 percentage point caseload reduction credit). (See table 1 and figure 1.) Thus, the composite national caseload's participation rate would exceed H.R. 4's 2008 requirements by about 14 percentage points.
- *Under S. XXX*, these steps would raise the measured participation rate of the composite

national caseload from about 36 percent to about 102 percent under S. XXX (which includes a 20 percentage point employment credit). (See table 1 and figure 1.) Thus, the composite national caseload's participation rate would exceed S. XXX's 2008 requirements by about 32 percentage points.

As we shall see, these steps would bring *all but six states into compliance with H.R. 4*, and would bring *all states into compliance with S. XXX*.

Significantly, as mentioned already, these higher participation rates could be accomplished without expanding services—assuming a flat real caseload (that only declines because of the transfer of cases into separate state programs), an important assumption as we shall see. Our estimates, however, are highly dependent on the application of H.R. 4's caseload reduction credit and S. XXX's employment credit. In our analysis, we treat these as equally certain elements. But whereas the employment credit is almost automatic, the caseload reduction credit could be problematic for many states—because it is dependent on legislative action, appropriate timing, and the absence of a caseload rise and may lose its effectiveness sometime after 2008. Hence, our H.R. 4 estimates should be viewed with these uncertainties in mind. (In a later section, we present ranges of estimates for scenarios in which states do not create separate state programs, or do not enjoy the benefits of the caseload reduction credit, or both.)

Figure 1
Cumulative Impact of Likely State Responses
(H.R. 4 & S. XXX, 2008)

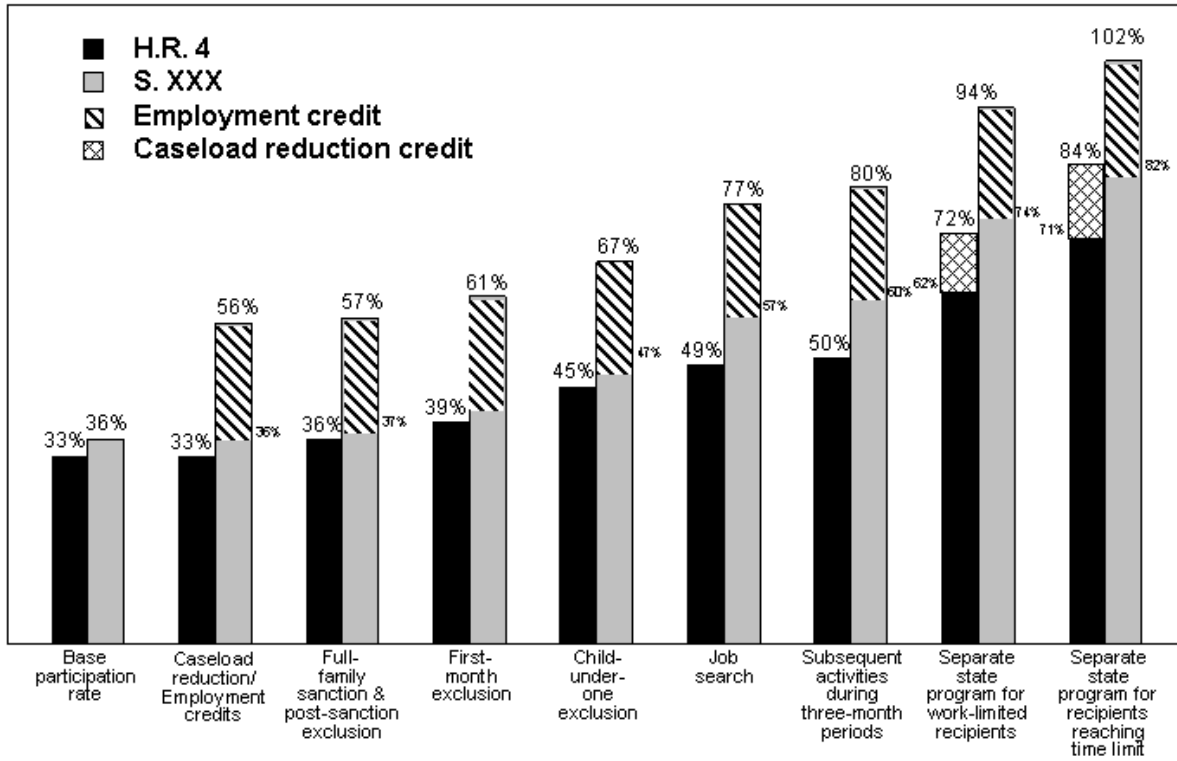


Table 1
Impact of Likely State Responses
to H.R. 4 and S. XXX's
Participation Requirements

Independent and Cumulative Effects in 2008
(From base rate of 33 percent and 36 percent, respectively)

State Response	Independent Effect^a	Additive Effect^b	Cumulative Participation Rate^c	Excess/Deficit Rate^d	Number of States in Deficit^e
	H.R. 4 / S. XXX	H.R. 4 / S. XXX	H.R. 4 / S. XXX	H.R. 4 / S. XXX	H.R. 4 / S. XXX
Base participation rate	–	–	33% / 36%	-37% / -34%	50+DC / 50+DC
Caseload reduction / Employment credits	0% / 20%	0% / 20%	33% / 56%	-37% / -14%	49+DC / 43+DC
Full-family sanction (H.R. 4) (about 6% of caseload with adult) ^f	3% / 0%	3% / 0%	36% / 56%	-34% / -14%	47+DC / 43+DC
Post-sanction exclusion (S. XXX) (about 6 % of caseload with adult) ^f	0% / 1%	0% / 1%	36% / 57%	-34% / -13%	47+DC / 43+DC
First-month exclusion (about 9% of caseload with adult) ^f	3% / 3%	3% / 3%	39% / 61%	-31% / -9%	46+DC / 38+DC
Child-under-one exclusion (about 17% of caseload with adult) ^f	5% / 5%	6% / 6%	45% / 67%	-25% / -3%	46+DC / 31+DC

Mandatory job search at application ^g (about 7-11% of caseload with adult) ^f	3% / 7%	4% / 10%	49% / 77%	-21% / 7%	46+DC / 17+DC
Activities during subsequent three-month periods	2% / 3%	1% / 3%	50% / 80%	-20% / 10%	46+DC / 10
Separate state program for work-limited recipients (about 15% of caseload with adult) ^f	16% (includes 10% caseload reduction credit) / 6%	22% (includes 10% caseload reduction credit) / 14%	72% (includes 10% caseload reduction credit) / 94%	2% / 24%	23+DC / 1
Separate state program for recipients in college and postsecondary education (no estimate made) ^f	0% / 0%	0% / 0%	72% / 94%	2% / 24%	23+DC / 1
Separate state program for time-limited recipients (about 2-3% of caseload with adult per year) ^f	10% (includes 4% caseload reduction credit) / 5%	12% (includes 4% caseload reduction credit) / 8%	84% (includes 13% caseload reduction credit) / 102%	14% / 32%	4 / 0

Notes:

^a “Independent effect” is the percentage point impact of the response if it is the only action taken on a base participation rate of 33 percent.

^b “Additive effect” is the percentage point impact of the response if it is combined with the actions preceding it on the table on a base participation rate of 33 percent. The “additive effect” does not include the impact of the caseload reduction credit or the superachiever credit for H.R. 4 or the employment credit for S. XXX.

^c “Cumulative participation rate” is the participation rate after this action and those preceding it on the table on a base participation rate of 33 percent.

^d “Excess/deficit rate” is the difference between the final required participation rate (after the application of caseload credit for H.R. 4, but not the superachiever credit, and the employment credit for S. XXX) and the cumulative participation rate at that point in the table. A positive result signifies an “excess,” so that participation requirements have been met; a negative result signifies a “deficit,” so that participation requirements have not been met.

^e Number of states in “deficit” is the number of states with cumulative participation rates below the final required participation rate at that point in the table. The final required participation rate reflects the caseload reduction credit for H.R. 4 (but not the superachiever credit) and the employment credit for S. XXX at that point in the table.

^f The percentage of the adult caseload before the application of any adjustments or exclusions.

^g For H.R. 4, this reflects job search as a three-month activity. For S. XXX, this reflects job search as a six-week direct work activity followed by job search as a three-month activity. As a result, the impact of mandatory job search at application under the two bills is different.

Individual states. Our national estimate, of course, does not reflect the actual situation of individual states. Some states start with higher base participation rates than the national average (sometimes much higher), and some start with lower rates. Moreover, our composite national caseload only roughly represents the “average” state, because states vary so greatly in the size and characteristics of their caseloads. To understand the impact of each bill on individual states, we applied our estimator to all fifty individual states and the District of Columbia.

Unfortunately, state-level data available from HHS about caseload characteristics and dynamics are not as detailed as the national data. Moreover, our estimator contains numerous assumptions about participation rates and patterns that, although probably accurate for the national caseload, often differ sharply from state to state. For example, we estimated the impact of the three-month-activity provisions (described below) using national data because we did not have state-level data. Whatever the accuracy of this and other estimates, the percentages surely vary by state. And, although we have tried to account for difficulties in implementation, particular states may have more severe problems. Hence, our state-by-state estimates should not be considered as precise as our national estimates. (Our estimator allows users to substitute their own data for many of its variables.)

Nevertheless, we believe that our state estimates provide a fair sense of the situation most states would face. We find that, after applying the steps outlined above:

- *Under H.R. 4* (as a result of the caseload reduction credits, full-family sanction, first-month exclusion, child-under-one exclusion, job search as a three-month activity, other three-month activities, and separate state programs) *only about four states would not meet H.R. 4’s participation requirements.* (The states would be Georgia, Maryland, Nebraska, and Pennsylvania, and, collectively, they would fall about 1,340 recipients short of the required level of participation.)
- *Under S. XXX* (as a result of the employment credit, proportional credit for hours of participation, post-sanction exclusion, first-month exclusion, child-under-one exclusion, job search as a direct work activity and as a three-month activity, other three-month activities, and separate state programs) *all states would meet S. XXX’s participation requirements.*

Table 2A
State-by-State Impacts of
Likely State Responses

— H.R. 4, 2008 —

	Base participation rate	Caseload reduction credits	Full-family sanction	First-month exclusion	Child-under-one exclusion	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
<i>United States</i>	33.0%	33.0%	36.1%	39.2%	45.4%	48.6%	50.4%	72.4%	72.4%	72.4%	83.9%	
Alabama	35.2%	35.2%	38.2%	42.6%	49.5%	51.1%	53.9%	74.8%	74.8%	74.8%	84.7%	
Alaska	41.1%	41.1%	41.8%	44.3%	50.9%	53.2%	54.5%	79.1%	79.1%	79.1%	89.7%	
Arizona	31.4%	31.4%	32.0%	35.1%	40.8%	46.8%	50.8%	71.2%	71.2%	71.2%	81.8%	
Arkansas	26.4%	26.4%	29.4%	32.3%	37.8%	39.2%	40.4%	59.5%	59.5%	59.5%	73.0%	
California	29.5%	29.5%	34.3%	37.5%	43.6%	46.3%	49.8%	71.9%	71.9%	71.9%	83.6%	
Colorado	37.5%	49.5%	50.4%	53.8%	60.3%	63.8%	65.0%	86.3%	86.3%	86.3%	96.5%	
Connecticut	32.8%	32.8%	33.8%	36.6%	42.5%	45.0%	46.4%	67.2%	67.2%	67.2%	79.4%	
Delaware	23.2%	23.2%	24.6%	27.1%	31.8%	40.5%	44.2%	63.5%	63.5%	63.5%	75.9%	
Dist. of Col.	21.3%	21.3%	24.7%	26.5%	31.0%	39.3%	43.7%	66.4%	66.4%	66.4%	80.4%	
Florida	27.1%	42.1%	45.1%	49.3%	55.3%	60.1%	62.7%	81.8%	81.8%	81.8%	93.3%	
Georgia	12.5%	16.5%	16.7%	18.1%	20.8%	30.8%	35.3%	51.0%	51.0%	51.0%	64.5%	713
Hawaii	29.9%	29.9%	29.9%	31.7%	36.8%	41.2%	44.6%	67.2%	67.2%	67.2%	80.5%	
Idaho	39.5%	59.5%	59.5%	68.1%	76.4%	76.4%	80.5%	101.1%	101.1%	101.1%	108.5%	

	Base participation rate	Caseload reduction credits	Full-family sanction	First-month exclusion	Child-under-one exclusion	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
Illinois	53.6%	67.6%	71.0%	75.3%	83.6%	84.4%	84.4%	110.4%	110.4%	110.4%	115.0%	
Indiana	49.6%	49.6%	51.9%	54.9%	62.5%	65.1%	65.8%	92.7%	92.7%	92.7%	99.5%	
Iowa	45.9%	45.9%	45.9%	48.8%	55.7%	61.2%	63.5%	89.0%	89.0%	89.0%	96.5%	
Kansas	51.7%	51.7%	51.7%	55.4%	63.0%	64.7%	64.7%	89.1%	89.1%	89.1%	95.9%	
Kentucky	33.7%	33.7%	36.2%	39.7%	46.1%	48.9%	49.3%	70.0%	70.0%	70.0%	81.4%	
Louisiana	33.8%	42.8%	43.3%	46.7%	52.8%	58.2%	60.4%	80.6%	80.6%	80.6%	91.0%	
Maine	47.1%	47.1%	56.1%	59.8%	68.2%	68.2%	70.3%	100.0%	100.0%	100.0%	104.7%	
Maryland	11.1%	16.1%	16.2%	17.2%	19.5%	29.4%	34.8%	51.7%	51.7%	51.7%	66.0%	366
Massachusetts	23.0%	23.0%	23.3%	25.4%	29.7%	36.3%	39.9%	58.7%	58.7%	58.7%	71.9%	
Michigan	32.7%	36.7%	36.8%	39.4%	45.0%	51.7%	55.9%	77.7%	77.7%	77.7%	88.5%	
Minnesota	32.7%	32.7%	34.4%	36.8%	42.6%	44.0%	46.3%	68.9%	68.9%	68.9%	81.9%	
Mississippi	19.8%	29.8%	29.8%	32.0%	36.0%	44.5%	49.2%	66.4%	66.4%	66.4%	79.1%	
Missouri	33.2%	33.2%	37.8%	40.7%	47.2%	49.2%	49.5%	72.7%	72.7%	72.7%	85.0%	
Montana	40.0%	40.0%	40.6%	43.1%	49.5%	50.2%	50.5%	74.2%	74.2%	74.2%	86.0%	
Nebraska	19.5%	19.5%	19.5%	21.2%	24.9%	30.8%	33.9%	52.0%	52.0%	52.0%	66.1%	131
Nevada	34.0%	34.0%	35.7%	39.2%	45.5%	49.3%	52.4%	73.4%	73.4%	73.4%	83.7%	
New Hampshire	31.1%	31.1%	34.8%	37.6%	43.7%	43.7%	45.5%	67.4%	67.4%	67.4%	80.4%	
New Jersey	38.7%	40.7%	40.7%	43.8%	50.2%	50.9%	51.2%	72.4%	72.4%	72.4%	83.7%	
New Mexico	43.6%	43.6%	50.1%	53.3%	61.0%	63.6%	64.5%	92.3%	92.3%	92.3%	99.6%	

	Base participation rate	Caseload reduction credits	Full-family sanction	First-month exclusion	Child-under-one exclusion	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
New York	39.7%	39.7%	45.8%	49.1%	56.4%	61.2%	63.5%	90.2%	90.2%	90.2%	97.7%	
North Carolina	24.0%	30.0%	30.6%	33.4%	38.2%	44.7%	48.1%	66.1%	66.1%	66.1%	78.4%	
North Dakota	26.1%	26.1%	30.3%	32.5%	37.9%	42.1%	44.2%	67.0%	67.0%	67.0%	80.9%	
Ohio	51.3%	54.3%	54.3%	58.8%	66.6%	67.1%	67.4%	90.4%	90.4%	90.4%	97.0%	
Oklahoma	22.4%	31.4%	31.4%	33.7%	38.1%	42.9%	46.5%	63.8%	63.8%	63.8%	76.8%	
Oregon	32.5%	32.5%	32.5%	35.7%	41.5%	41.5%	46.6%	66.1%	66.1%	66.1%	77.6%	
Pennsylvania	13.7%	13.7%	15.3%	16.6%	19.6%	30.1%	35.4%	54.8%	54.8%	54.8%	69.6%	130
Rhode Island	27.2%	27.2%	29.3%	31.3%	36.4%	42.6%	45.1%	68.2%	68.2%	68.2%	81.6%	
South Carolina	36.0%	41.0%	41.0%	44.6%	50.9%	53.5%	54.4%	74.1%	74.1%	74.1%	85.0%	
South Dakota	39.2%	39.2%	40.6%	45.5%	52.7%	54.9%	56.0%	76.6%	76.6%	76.6%	85.6%	
Tennessee	34.3%	34.3%	34.3%	36.9%	42.7%	42.7%	43.8%	64.5%	64.5%	64.5%	77.3%	
Texas	22.8%	22.8%	29.6%	32.3%	37.9%	41.6%	43.5%	65.5%	65.5%	65.5%	79.6%	
Utah	30.0%	30.0%	30.0%	32.5%	37.8%	40.9%	41.9%	61.7%	61.7%	61.7%	74.6%	
Vermont	17.0%	17.0%	17.9%	19.1%	22.4%	30.3%	34.5%	55.2%	55.2%	55.2%	70.7%	
Virginia	27.9%	27.9%	27.9%	30.5%	35.6%	41.9%	46.4%	66.0%	66.0%	66.0%	77.7%	
Washington	51.3%	51.3%	55.9%	59.8%	68.1%	68.1%	68.5%	95.2%	95.2%	95.2%	100.6%	
West Virginia	24.4%	24.4%	26.9%	29.0%	33.9%	39.9%	42.6%	63.7%	63.7%	63.7%	77.2%	
Wisconsin	47.5%	63.5%	76.8%	87.1%	98.3%	98.3%	100.7%	121.1%	121.1%	121.1%	121.1%	
Wyoming	51.4%	71.4%	84.0%	95.9%	107.6%	107.6%	110.8%	124.6%	124.6%	124.6%	124.6%	

	Base participation rate	Caseload reduction credits	Full-family sanction	First-month exclusion	Child-under-one exclusion	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
Number of states in compliance	0	1	3	3	4	4	5	27	27	27	47	1,340

Source: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), various tables, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

Note: The impact of H.R. 4's caseload reduction credit is added to the participation rate at each step, as appropriate.

Table 2B
State-by-State Impacts of
Likely State Responses

— S. XXX, 2008 —

	Base participation rate	Employment credit	Post-sanction exclusion	First-month exclusion	Child-under-one exclusion	Job search for six weeks	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
<i>United States</i>	36.3%	56.3%	57.4%	60.5%	67.0%	68.5%	76.5%	79.7%	94.1%	94.1%	94.1%	101.7%	
Alabama	37.0%	57.0%	59.3%	63.7%	70.8%	70.8%	78.8%	83.4%	99.9%	99.9%	99.9%	107.1%	
Alaska	44.4%	64.4%	64.6%	67.2%	74.1%	75.1%	82.5%	85.7%	100.5%	100.5%	100.5%	106.6%	
Arizona	34.0%	54.0%	54.3%	57.6%	63.7%	65.9%	75.6%	80.4%	94.8%	94.8%	94.8%	102.2%	
Arkansas	28.6%	48.6%	49.2%	51.9%	57.3%	57.7%	68.2%	73.4%	86.4%	86.4%	86.4%	95.0%	
California	33.2%	53.2%	53.2%	56.1%	62.4%	62.4%	71.7%	76.6%	90.0%	90.0%	90.0%	98.0%	
Colorado	40.5%	60.5%	61.0%	64.5%	71.4%	73.6%	82.1%	86.2%	101.8%	101.8%	101.8%	108.0%	
Connecticut	35.4%	55.4%	55.8%	58.7%	64.8%	66.1%	73.5%	75.9%	89.0%	89.0%	89.0%	97.0%	
Delaware	25.1%	45.1%	45.5%	48.0%	52.9%	58.4%	68.0%	72.0%	84.8%	84.8%	84.8%	93.7%	
Dist. of Col.	24.3%	44.3%	44.3%	46.1%	50.8%	55.0%	65.7%	70.9%	82.9%	82.9%	82.9%	91.5%	
Florida	29.5%	49.5%	53.6%	58.6%	65.5%	67.4%	78.0%	83.0%	101.9%	101.9%	101.9%	110.0%	
Georgia	13.6%	33.6%	33.6%	35.1%	37.9%	43.8%	56.3%	62.4%	72.9%	72.9%	72.9%	82.7%	
Hawaii	32.2%	52.2%	52.2%	54.2%	59.7%	60.5%	70.1%	74.8%	87.2%	87.2%	87.2%	95.1%	

	Base participation rate	Employment credit	Post-sanction exclusion	First-month exclusion	Child-under-one exclusion	Job search for six weeks	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
Idaho	46.1%	66.1%	66.1%	75.3%	84.6%	84.6%	84.6%	87.6%	105.5%	105.5%	105.5%	111.8%	
Illinois	60.1%	80.1%	82.3%	86.7%	95.6%	97.8%	102.5%	103.9%	120.0%	120.0%	120.0%	120.0%	
Indiana	54.6%	74.6%	75.6%	78.9%	87.2%	89.7%	93.9%	94.7%	111.6%	111.6%	111.6%	115.6%	
Iowa	49.6%	69.6%	70.0%	73.0%	80.5%	83.9%	90.7%	93.8%	110.4%	110.4%	110.4%	114.6%	
Kansas	56.6%	76.6%	76.6%	80.6%	88.9%	92.6%	94.4%	94.4%	111.0%	111.0%	111.0%	115.1%	
Kentucky	36.5%	56.5%	58.7%	62.4%	69.2%	72.4%	81.1%	85.0%	101.5%	101.5%	101.5%	108.2%	
Louisiana	36.5%	56.5%	56.5%	60.0%	66.5%	69.7%	78.9%	83.5%	98.4%	98.4%	98.4%	105.2%	
Maine	48.0%	68.0%	68.0%	71.0%	78.6%	78.6%	80.2%	83.5%	97.7%	97.7%	97.7%	104.2%	
Maryland	12.0%	32.0%	32.0%	33.1%	35.5%	40.5%	53.0%	59.3%	68.7%	68.7%	68.7%	78.2%	
Massachusetts	25.2%	45.2%	45.2%	47.4%	52.2%	55.5%	65.1%	69.2%	80.9%	80.9%	80.9%	89.8%	
Michigan	35.3%	55.3%	55.4%	58.1%	64.2%	66.9%	76.2%	80.8%	94.8%	94.8%	94.8%	102.0%	
Minnesota	34.5%	54.5%	56.1%	58.6%	64.6%	64.6%	71.7%	74.9%	88.1%	88.1%	88.1%	96.5%	
Mississippi	21.5%	41.5%	41.5%	43.9%	48.2%	52.3%	63.8%	69.5%	81.6%	81.6%	81.6%	90.8%	
Missouri	35.8%	55.8%	56.8%	59.5%	65.7%	68.7%	76.5%	79.6%	93.6%	93.6%	93.6%	101.2%	
Montana	45.6%	65.6%	66.8%	69.7%	77.0%	78.5%	81.0%	81.0%	95.0%	95.0%	95.0%	102.1%	
Nebraska	21.1%	41.1%	41.1%	42.9%	46.9%	49.6%	60.1%	64.7%	75.3%	75.3%	75.3%	84.4%	
Nevada	36.8%	56.8%	56.8%	60.3%	66.7%	67.5%	76.6%	81.0%	95.3%	95.3%	95.3%	102.6%	
New Hampshire	31.6%	51.6%	52.9%	55.5%	61.3%	61.3%	66.7%	69.3%	81.3%	81.3%	81.3%	90.4%	
New Jersey	43.5%	63.5%	63.5%	66.9%	74.3%	75.3%	81.6%	83.5%	98.2%	98.2%	98.2%	104.8%	

	Base participation rate	Employment credit	Post-sanction exclusion	First-month exclusion	Child-under-one exclusion	Job search for six weeks	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
New Mexico	47.0%	67.0%	69.6%	72.7%	80.4%	82.4%	89.2%	91.9%	109.1%	109.1%	109.1%	113.9%	
New York	43.1%	63.1%	67.2%	70.6%	78.3%	80.9%	89.0%	92.7%	111.3%	111.3%	111.3%	115.9%	
North Carolina	26.1%	46.1%	46.8%	49.8%	55.1%	58.2%	69.0%	74.3%	88.1%	88.1%	88.1%	96.9%	
North Dakota	30.0%	50.0%	50.0%	52.2%	57.9%	60.1%	69.8%	74.4%	87.1%	87.1%	87.1%	95.3%	
Ohio	58.6%	78.6%	79.0%	83.9%	92.6%	93.0%	98.2%	100.0%	118.2%	118.2%	118.2%	120.0%	
Oklahoma	24.2%	44.2%	44.2%	46.6%	51.3%	52.4%	63.0%	67.8%	79.3%	79.3%	79.3%	88.5%	
Oregon	37.5%	57.5%	57.5%	61.2%	67.9%	67.9%	67.9%	68.0%	79.4%	79.4%	79.4%	88.4%	
Pennsylvania	15.2%	35.2%	35.2%	36.5%	39.6%	45.3%	57.1%	63.0%	73.3%	73.3%	73.3%	82.6%	
Rhode Island	29.4%	49.4%	49.7%	51.6%	56.7%	60.7%	69.8%	74.0%	86.4%	86.4%	86.4%	94.6%	
South Carolina	39.2%	59.2%	60.3%	64.2%	71.3%	73.3%	80.3%	82.4%	97.6%	97.6%	97.6%	104.8%	
South Dakota	42.3%	62.3%	62.9%	67.9%	75.4%	76.7%	84.4%	87.5%	104.0%	104.0%	104.0%	110.0%	
Tennessee	38.8%	58.8%	58.8%	61.6%	68.1%	68.1%	71.4%	72.1%	84.0%	84.0%	84.0%	92.3%	
Texas	24.7%	44.7%	47.9%	50.5%	55.8%	57.8%	66.6%	69.4%	83.2%	83.2%	83.2%	93.7%	
Utah	32.4%	52.4%	53.6%	56.3%	62.2%	64.8%	71.3%	72.7%	85.4%	85.4%	85.4%	94.2%	
Vermont	18.3%	38.3%	38.8%	40.1%	43.6%	47.6%	58.4%	63.4%	73.8%	73.8%	73.8%	83.2%	
Virginia	30.4%	50.4%	50.4%	53.2%	58.7%	60.7%	70.7%	75.5%	88.6%	88.6%	88.6%	96.8%	
Washington	55.0%	75.0%	76.9%	80.9%	89.2%	89.2%	93.0%	93.8%	111.0%	111.0%	111.0%	115.3%	
West Virginia	26.3%	46.3%	47.3%	49.4%	54.4%	57.8%	68.0%	72.9%	85.8%	85.8%	85.8%	94.5%	
Wisconsin	55.7%	75.7%	82.2%	92.3%	103.2%	103.2%	103.2%	103.2%	120.0%	120.0%	120.0%	120.0%	

	Base participation rate	Employment credit	Post-sanction exclusion	First-month exclusion	Child-under-one exclusion	Job search for six weeks	Job search as a three-month activity	Activities during subsequent three-month periods	Separate state program for work-limited recipients	Other separate state program 1	Other separate state program 2	Separate state program for recipients reaching time limit	Shortfall (cases)
Wyoming	51.3%	71.3%	79.6%	90.6%	101.8%	101.8%	101.8%	105.3%	120.0%	120.0%	120.0%	120.0%	
Number of states in compliance	0	7	7	12	19	20	33	40	50	50	50	51	0

Source: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), various tables, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

Note: The impact of S. XXX's employment credit is added to the participation rate at each step, as appropriate.

The Limits of Our Estimator

Our estimator is a static model—in which we examine the characteristics of the caseload to determine the percentage affected by H.R. 4's or S. XXX's various provisions. It applies those results without adjusting for possible behavioral effects. For example, we estimate the potential impact of their three-month-activity provisions based on the percentage of adults in one of the relevant three-month periods. If states used the provisions to require job search, some portion of the caseload might leave welfare sooner than it otherwise would have, but we do not include an estimate of the resulting decline in that three-month period. Such behavioral shifts should be expected, but we do not include them in our estimator because they do not substantially alter the results.

Our estimator is based on a number of assumptions about caseload dynamics and state responses to higher participation rates, and we were concerned that it would be sensitive to alternate assumptions. However, the estimator seems to provide remarkably stable results—even when key assumptions are varied to reflect their uncertainty. Nevertheless, the estimates it provides are subject to at least four unpredictable possibilities: incomplete adoption, toughened (or loosened) rules, rising (or falling) caseloads, and inaccurate data.

Incomplete adoption by the states? We use our estimator to calculate the maximum that participation rates can be increased without a substantial increase in services or spending and without appearing to eviscerate welfare reform. But some states may not want to adopt all the elements that we identify. They may not, for example, want to establish independent job search for as long as we posit, they may not want to exempt from participation all those that either bill allows, they may not want to create some or all of the separate state programs that are possible, and so forth. Therefore, the estimator allows users to pick and choose which elements to consider in the calculation.

The biggest uncertainty is the impact of H.R. 4's caseload reduction credit. Throughout, we assume that, under H.R. 4, states could trigger a caseload reduction credit by transferring cases to separate state programs (or adopting other eligibility changes that reduce caseloads). For example, the participation rate under H.R. 4 would fall from 84 percent to 71 percent without the caseload reduction credit. As a result, the number of states that would fail to meet the participation requirements would rise from four states to twenty-five and the District of Columbia, and the collective shortfall in the required level of participation would increase from 1,340 to 21,123 recipients. This is the major reason why we conclude that so many states could satisfy H.R. 4's requirements without a substantial increase in services or spending.

But, as described below, many uncertainties affect the applicability and size of the credit. For example, we assume that states that adopt a separate state program in 2004 could trigger a caseload reduction credit in 2008, based on the caseload decline from 2004 to 2007. The potential for generating a caseload reduction credit, however, is generally short-lived—because the base

year for the calculation of the credit is recalibrated each year, and the caseload decline from the transfer to separate state programs soon becomes reflected in the base year caseload, erasing the value of the credit. Moreover, if caseloads rise, even the transfer of cases to separate state programs may not be sufficiently large to trigger a caseload reduction credit. (Of course, if states cannot trigger the caseload reduction credit, they may increase the number of families transferred to separate state programs to further raise their participation rate. And, in the extreme, a state could convert its entire caseload to child-only cases, which are completely exempt from federal participation requirements.)

Tougher (or looser) rules? Our estimator is based on the current versions of both bills and the regulations currently in force under TANF. But the rules may change, either in the give and take of the legislative process or through subsequent regulation; the final bill may be tightened during the reauthorization process or HHS may tighten it through the regulatory process. A real possibility would be a change in the caseload reduction credit to prevent its being triggered by the transfer of cases to a separate state program, an inadvertent effect of recalibrating the credit (as described in the appendix). For example, the countable activities for the sixteen hours of additional participation might be defined narrowly, “supervised community service” and “community service” might be defined narrowly, or the countable activities for the three-month-activity rule might be restricted. Or, limitations might be imposed on the use of separate state programs to avoid participation requirements and on the use of federal TANF funds to supplant state spending.

Collectively, removing all these possibilities could substantially raise the bar to meeting participation requirements. But individually, the only tightening that would have a substantial impact on our estimates would be a restriction on the creation of separate state programs (which, as we note below, might be difficult to accomplish). For example, a prohibition on counting (as a community service under H.R. 4) the care an adult recipient provides for a disabled child or other dependent would lower the participation rate of our composite national caseload by 5 percentage points. But a restriction on the creation or use of a separate state program would have a much larger impact. For example, barring a separate state program for the work-limited would reduce the participation rate of our composite national caseload by 12 percentage points (under both bills) and, under H.R. 4, could also reduce the potential size of a caseload reduction credit by 10 percentage points. (In a later section, we present our estimate of the range of resultant required participation rates and consequent costs, based on whether states use separate state programs and the caseload reduction credit.)

Conversely, the political process could result in looser or more liberal rules. The most prominent example would be the possible continuation of waivers first granted under the Aid to Families with Dependent Children (AFDC) program that allowed states to depart from its entitlement-oriented rules. Many of these waivers were continued under TANF, and they essentially allow states to operate their programs in ways that may be inconsistent with federal TANF provisions. In the context of this paper, these waivers allow states to continue policies that ease participation requirements, either by expanding the categories of families exempt from

participation requirements, reducing required hours of participation, or broadening the range of countable work activities. For example, Massachusetts exempts parents with a child under age six (in contrast to under age one under TANF), allows indefinite participation in job search (compared to a six-week limit per year under TANF), and counts twenty hours per week of participation as satisfying TANF participation rates for parents with a child age six and older (compared to thirty hours per week under TANF).

Allowing states to continue these waivers could raise the base participation rate in many states. The increase could be as small as 1 percentage point (in Utah) or as large as 66 percentage points in Massachusetts.¹⁶ According to HHS, in 2001, after including waivers, participation rates under current TANF rise as follows: Delaware (from 12 percent to 25 percent), Massachusetts (from 11 percent to 77 percent), Nebraska (from 14 percent to 18 percent), Oregon (from 11 percent to 72 percent), Tennessee (from 21 percent to 32 percent), Texas (from 16 percent to 42 percent), Utah (from 25 percent to 26 percent), and Virginia (from 23 percent to 44 percent).¹⁷

H.R. 4 would not authorize the waivers to be extended after they expire, and S. XXX would seem to eviscerate their impact on participation rates.¹⁸ Hence, we do not include their possible impact in our estimates (except as three-month activities). Strong support for the continuation, however, appears to exist in the Senate,¹⁹ so they could easily find their way into the final TANF reauthorization.

¹⁶These increases are based on the current TANF methodology for computing participation rates. The impact of continuing waivers would be somewhat different under H.R. 4 or S. XXX.

¹⁷U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-102, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These differences in participation rates are based on the current TANF methodology rather than the one we developed for estimating the base participation rate under either H.R. 4's or S. XXX's rules.

¹⁸S. XXX would appear to limit the extension of waivers to those that broaden the scope of allowable activities, and no longer permit waivers that expand exemptions or reduce the required hours of participation. Moreover, it would allow states to use these expanded waiver activities only during the first three months of the additional three-month-activity rule and for participation beyond the twenty-four-hour direct work activity threshold. Because states would already have considerable flexibility in developing program activities during these periods, the practical significance of this provision appears minimal.

¹⁹For example, in March 2003, Senators Gordon Smith (R-OR) and Ron Wyden (D-OR) introduced legislation that would have allowed states with active TANF waivers (as well as those that had waivers that expired in the prior year) to continue their waivers through the next welfare reauthorization period. See U.S. Congress, Senate, Office of Senator Gordon Smith, "Smith & Wyden Seek Flexibility for Oregon's Welfare System: Legislation Would Preserve Success of the Oregon Option," news release, March 13, 2003, available from: <http://gsmith.senate.gov/press/2003/03-12-03.htm>, accessed October 27, 2003; U.S. Congress, Senate, Office of Ron Wyden, "Wyden, Smith See Flexibility For Oregon's Welfare System: Legislation Would Preserve Success of the Oregon Option," news release, March 17, 2003, available from: http://wyden.senate.gov/media/2003/03172003_tanf.htm, accessed November 3, 2003.

A rising caseload? Our calculations assume that caseloads will not rise (and, in fact, that they will technically fall because of the transfer of cases to separate state programs). If caseloads rise, the participation gap to be filled would be larger than we have projected, and smaller if they fall. Both are possibilities. In some states, caseloads continue to fall, even in the face of a sustained economic slowdown. In other states, caseloads are rising, sometimes substantially. Any rise in the caseload would make it tougher for states to attain the required participation rate, especially under H.R. 4, because the caseload reduction credit is mitigated.

To test the sensitivity of our analysis to this flat-caseload assumption, we performed additional calculations with the caseload rising 10 percent, 25 percent, and 50 percent (see table 3).

Under H.R. 4, our calculations indicate that, for the national caseload:

- A 10 percent caseload rise would not create a participation gap for our composite national caseload in 2008, but it would raise the number of states not meeting H.R. 4's participation requirements from four states to eighteen states and the District of Columbia.
- A 25 percent caseload rise would create a participation gap for our composite national caseload of about 3 percentage points in 2008, raising the number of states not meeting H.R. 4's participation requirements from four states to thirty-two states and the District of Columbia.
- A 50 percent caseload rise would create a participation gap for our composite national caseload of about 6 percentage points in 2008, raising the number of states not meeting H.R. 4's participation requirements from four states to thirty-five states and the District of Columbia.

Not only does the required participation rate rise, but so does the absolute number of recipients that must be placed in activities (from 1,340 to 66,302 recipients).

Under S. XXX, caseload increases would have a smaller effect on the participation gap and the number of states not meeting the participation requirements—because the employment credit would continue to reduce a state's final required participation rate regardless of whether the caseload is rising or falling. (In contrast, H.R. 4's caseload reduction credit would not reduce participation requirements during periods of caseload growth.) Our calculations indicate that, for the national caseload operating under S. XXX:

- A 10 percent caseload rise would not create a participation gap for our composite national caseload or for any state in 2008.
- A 25 percent caseload rise also would not create a participation gap for our composite

national caseload or for any state in 2008.

- A 50 percent caseload rise also would not create a participation gap for our composite national caseload or for any state in 2008.

Two points stand out in this analysis. First, the increase in needed participation is not as much as one would suppose—largely because various adjustments and exclusions to participation requirements operate as percentages of the caseload. Second, if caseloads rise, H.R. 4 places considerably more pressure on the states than does S. XXX.

Why the difference between H.R. 4 and S. XXX if caseloads rise? S. XXX’s employment credit and its proportional credit for hours of participation would continue to have an impact when caseloads rise, but H.R. 4’s caseload reduction credit is not triggered. That, by the way, is a major practical difference between the two bills.

Table 3
Impact of Rising Caseloads on Participation Requirements

Pending Bill	0% Increase		10% Increase		25% Increase		50% Increase	
	National Gap (%)	States with Gap (cases)	National Gap (%)	States with Gap (cases)	National Gap (%)	States with Gap (cases)	National Gap (%)	States with Gap (cases)
H.R. 4	0	4 (1,340)	0	18+DC (11,056)	3	32+DC (42,397)	6	35+DC (66,302)
S. XXX	0	0 0	0	0 0	0	0 0	0	0 0

Note: The “national gap” is the percentage point difference between the adjusted participation rate and the final required participation rate.

Inaccurate data? The foregoing estimates depend on data collected by the states and submitted to HHS. Our data are from 2001²⁰ and, although we do not think there have been substantial changes in this short amount of time, there is no way to tell for sure—especially given the changes in the economy, and hence caseload dynamics, since then. In addition,

²⁰At this writing, this is the most recent national data available. Although HHS has released data on participation in program activities in 2002 (see “Temporary Assistance for Needy Families (TANF) Participation Rates: Fiscal Year 2002,” available from: <http://www.acf.hhs.gov/programs/ofa/particip/indexparticip.htm#2002>, accessed December 1, 2003), it has not released data on the characteristics of all TANF families receiving assistance. This latter information is needed to estimate the effect of various adjustments and exclusions authorized by H.R. 4 and S. XXX, including the full-family sanction, the first-month-of-assistance exclusion, and the child-under-age-one exclusion.

except where indicated, we assume the data submitted to HHS by the states are accurate. There is evidence, however, that these data may, depending on the state, either overstate or understate participation.

Overcounts? In preparing this report, we came across numerous indications that some state data overstate participation levels. For example, the Department of the Auditor General in Pennsylvania reported that, for the year ending June 30, 2001, the state had not complied with federal reporting requirements.²¹ It documented many instances in which participation data reported by the state to the federal government was either inaccurate or could not be verified. We have also been told by reliable sources about other instances in which local programs do not keep records about participation. Instead, they report (or the state simply assumes) that recipients who have been assigned to an activity have 100 percent participation.

This is not meant to suggest that such states or local agencies are engaged in illegal or even improper behavior. These data are not needed for federal reporting purposes—because almost all the states have easily satisfied TANF’s participation requirements.

Undercounts. Even more evidence points to large amounts of unreported participation. Because the states so easily satisfied TANF’s participation requirements, they have not needed to count or report all the participation taking place. For the same reason, many states offer or require participation in activities that are not countable under current TANF, such as substance abuse counseling and treatment and various educational activities, to name a few. (Significantly, as we will see, under H.R. 4 and S. XXX, most of these activities could be countable for three months in a twenty-four-month period.) Mark Greenberg and Hedieh Rahmanou of the Center for Law and Social Policy (CLASP) explain:

Why don’t most states report “other activities”? There are probably two principal reasons. First, it isn’t a requirement. Second, the underlying issue of what share of the caseload is “doing something” didn’t emerge as a significant topic of discussion until the Administration issued its proposal in 2002. Until then, many states likely thought that reporting numbers or hours of engagement in “other activities” wasn’t particularly informative or meaningful.²²

Maryland, for example, reported participation data that would result in a 2001 base participation rate of 11 percent, which would mean that it would have to raise participation by 54 percentage

²¹Commonwealth of Pennsylvania, *Single Audit Report: For Fiscal Year Ended June 30, 2001* (Harrisburg, PA: Department of Auditor General, November 16, 2001), pp. 88–89 and pp. 144–149, available from: http://www.oit.state.pa.us/budget/lib/budget/2000-2001/sar/sar_2001.pdf, accessed October 27, 2003.

²²Mark Greenberg and Hedieh Rahmanou, *TANF Participation in 2001* (Washington, DC: Center for Law and Social Policy, March 18, 2003), p. 3, available from: http://www.clasp.org/DMS/Documents/1048004065.37/2001_TANF_Participation.pdf, accessed April 15, 2003.

points to meet H.R. 4's 2008 requirements. (The state receives a 5 percentage point boost to its participation rate from the superachiever credit, raising its rate from 11 percent to 16 percent.) State officials, however, have told us that actual participation is much higher than that reported to HHS. Because the state already met the current TANF participation rate (due to the caseload reduction credit), it did not attempt to collect data on all those who might satisfy the participation requirements because of the cost and administrative burden of doing so. Mark Millspaugh, a program analyst in Maryland's Family Investment Administration, explains: "We are very rigid in what we report for those who participated in work activities and do not report any hours of participation for which we do not have documentation. That means that many clients who got jobs but are transitioning off do not tell us how many hours they are working so we can't count them."²³ Although the state could expend more resources tracking potential participants and obtaining the necessary documentation, up to now it had no need to.

According to Maryland's Millspaugh: "We allow local departments to engage clients in activities that do not count toward the federal participation rate. We have many clients engaged in activities related to 'wellness,' which means they are attending doctor appointments and physical therapy but not doing anything else. We also have clients who are caring for disabled family members full time."²⁴ Many of these participants would be countable under H.R. 4's three-month-activity rule or a broadly defined community service program. Indeed, in calculating the national base participation rate, we assume that 5 percent of the TANF caseload with an adult is caring for a disabled child or other dependent and could be counted as participating in community service under H.R. 4 or under S. XXX's specific provision on the subject.

A study by the U.S. General Accounting Office (GAO) suggests that, nationally, the undercount could be considerable. According to the GAO, in 2000, using each state's own definition of participation (which could, for example, include participation in substance abuse treatment or mental health services) and a low hourly requirement, about 56 percent of TANF adults were involved in state-approved ("work or work-related") activities, but only 40 percent of TANF adults were in countable activities and reported to HHS.²⁵ Thus, it would appear that

²³Mark Millspaugh, program analyst, Maryland Family Investment Administration, e-mail message to Peter Germanis, May 15, 2003.

²⁴Mark Millspaugh, program analyst, Maryland Family Investment Administration, e-mail message to Peter Germanis, May 15, 2003.

²⁵The 40 percent figure reported to HHS differs from the official participation rate (34 percent in 2000) in two ways. First, the percentage is based on the number of adults with "any hour" of participation, including those who do not participate for enough hours to be counted toward the participation requirements. Second, it is based on all TANF adults and does not adopt any of TANF's authorized exclusions, such as single custodial parents with a child under age one or those subject to a sanction (for up to three months), which reduces the number of adults in the base of the participation rate calculation (and thus raise the official participation rate). See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families Program (TANF): Fourth Annual Report to Congress* (Washington, DC:

at least 16 percent of TANF adults participated in activities that were either not countable under TANF or were simply not reported to HHS because participation requirements had already been satisfied.²⁶ It is unclear, however, how many of these “undercounted” participants could be counted under both bills’ three-month-activity provisions because there is insufficient information on the number of hours and length of participation to make the calculation. (As explained below, adult recipients must meet minimal hourly requirements to be counted and their participation in activities that are not considered direct work activities could be counted for only three months in a twenty-four-month period.)

Likely State Responses

CLASP’s Steve Savner argues that H.R. 4 (and presumably S. XXX) “would force all states to adopt a program model that no state has chosen to implement.”²⁷ That is not true, if our analysis is correct.

According to our calculations, under either bill, only a few states would have to expand services or spending in order to comply with the new participation requirements. And that is under a conservative approach to creating separate state programs. Slightly larger separate state programs could erase even this small shortfall.

Moreover, nothing required by either bill has not already been accomplished in most states. Raising participation rates may be a challenge for states facing a shortfall, but the fact that most states already have participation rates higher than needed to satisfy either bill’s requirements means that doing so will not be nearly as difficult as the political rhetoric suggests.

But there are uncertainties in our approach. First, although we have confidence in our analysis, it is based on a stylized model of both bills’ impact on participation requirements. As described above, it does not provide a perfect estimation of likely results. Some states might not adopt all the adjustments, exclusions, or programmatic changes that we included in our estimates. Moreover, our calculations assume that caseloads will not rise. If they do, more states would fall short of both bills’ participation requirements. In addition, the rules for

U.S. Department of Health and Human Services, May 2002), p. III-96, available from: <http://www.acf.hhs.gov/programs/opre/ar2001/indexar.htm>, accessed December 10, 2003.

²⁶The 16 percent difference is probably a conservative estimate of the difference attributable to nonreported activities, because some states reporting to the GAO may have limited their count of participants to those satisfying a minimal hourly standard, whereas the HHS count of participants would include anyone who participated, regardless of the hours.

²⁷Steve Savner, “Testimony,” before Senate Committee on Finance, *Issues in TANF Reauthorization: Requiring and Supporting Work: Hearing before the Committee on Finance*, 107th Cong., 2nd sess., April 10, 2002, available from: <http://finance.senate.gov/hearings/testimony/041002sstest.pdf>, accessed April 17, 2003.

counting participation in various activities, which we have characterized as liberal, could be tightened. (This would be a special concern in regard to H.R. 4's caseload reduction credit.)

Given this uncertainty about the actual level of participation requirements, we expect almost all states to assume that they might fall short of the new participation requirements and that they need to do more to be sure that they do not. Hence, to be safe, many states are likely to strive for participation levels that exceed the minimum participation requirements in case participation falls short of expectations.

Nevertheless, there will be little need for most states to rush implementation decisions. For most states, the actual imposition of higher participation requirements would not occur right away. The combination of the phase-in of higher participation rates and the recalibrated caseload reduction credit under H.R. 4 and the employment credit under S. XXX counters the increase in participation requirements until at least 2006.

Therefore, most states will probably adopt a step-by-step approach to implementing either bill, timing the adoption of a particular strategy or programmatic element to maximize its impact on participation rates. Here is what we expect, in basically the order in which the steps will be taken:

1. Tighter administration to maximize participation in existing programs.
2. More sanctioning to encourage compliance.
3. Increased diversion to reduce the number of recipients subject to participation requirements.
4. Maximized adjustments, exclusions, and exemptions to reduce the proportion of the caseload subject to participation requirements.
5. Expanded job search, job readiness, and other work first activities to provide a low-cost form of participation and to avoid or shorten stays on welfare.
6. Additional separate state programs to remove portions of the caseload from participation requirements.
7. Increased work and work-related activities to help meet participation requirements.

Tighter administration. Establishing compliance with either bill will require better management of welfare caseloads—from record keeping to intensive scheduling of program activities. As a result, recipients who stop participating could be reassigned to appropriate activities (without periods of inactivity for extended periods of time). For example, states may also become more aggressive in limiting the number of recipients they exempt from

participation requirements. Thus, between November 1996 and April 1999, New York City's Human Resources Administration reduced the percentage of TANF families with an adult who were excused from participation due to age, disability, or a temporary incapacity, from about 16 percent of families to about 7 percent.²⁸ The agency accomplished this by obtaining third-party medical verifications for families claiming a disability or health problem and by assigning those with a health or physical problem to other appropriate activities.²⁹ Apparently, there were no adverse effects on recipients.

More sanctioning. H.R. 4 requires that states adopt a full family sanction for noncompliance, but even if this provision is not in the final reauthorization law, we expect states to increase their level of sanctioning, both partial and full family. Gayle Hamilton and Susan Scrivener, researchers at the Manpower Demonstration Research Corporation (MDRC), explain how quick follow up can help keep participation levels high:

First, it makes it less likely that recipients who fail to participate will be forgotten by the welfare-to-work program. Second, it reinforces the participation mandate by showing that the program will track people's actions and enforce expectations. Third, it enables staff to learn about any legitimate reasons for nonparticipation and assist welfare recipients in addressing those issues.³⁰

Increased diversion. Families that do not go on welfare are not subject to participation requirements. In addition, S. XXX provides an explicit participation credit for families that have been diverted from welfare for work.

Maximized adjustments, exclusions, and exemptions. Both bills have a number of provisions that allow states to exclude from participation requirements specified types of cases that would likely have low participation rates.

Expanded job search, job readiness, and other work first activities. Most states will take advantage of the liberalization of counting job search and job readiness activities contained in both bills to expand or intensify these activities because these activities can reduce caseloads and are low cost, especially if operated as independent job search.

Additional separate state programs. We also expect states to adopt one or more

²⁸Authors' calculations based on Douglas J. Besharov and Peter Germanis, "Work Experience in New York City," unpublished draft, March 21, 2003, table A.7.

²⁹Douglas J. Besharov and Peter Germanis, "Work Experience in New York City," unpublished draft, March 21, 2003.

³⁰Gayle Hamilton and Susan Scrivener, *Promoting Participation: How to Increase Involvement in Welfare-to-Work Activities* (New York, NY: Manpower Demonstration Research Corporation, September 1999), p. 46.

separate state programs (at least ones for work-limited recipients, for those beyond the five-year time limit, and perhaps one for those in postsecondary education). Doing so would remove such cases from the caseload subject to participation requirements—as states have done in the past. (It could also trigger a caseload reduction credit under H.R. 4.) But we do not expect many states to use separate state programs to avoid entirely the new participation requirements.

Increased work and work-related activities. We also expect states to increase the number of recipients in countable activities, although not by much. Which activities would they expand? The best answer is probably found in the activities that higher-participation-rate states have used under TANF (see figure 2). Presumably, what these states are now doing is a good indication of what other states would do. As the following discussion reveals, under TANF, just four activities—unsubsidized employment, job search, vocational educational training, and work experience—account for nearly 90 percent of countable participation under current TANF (see figure 3). Moreover, low-participation-rate states tend not to have a large proportion of their caseloads in these activities, while high-participation-rate states do.

Figure 2
High and Low Participation Rates
(Percent of Adult TANF Cases, 2001)

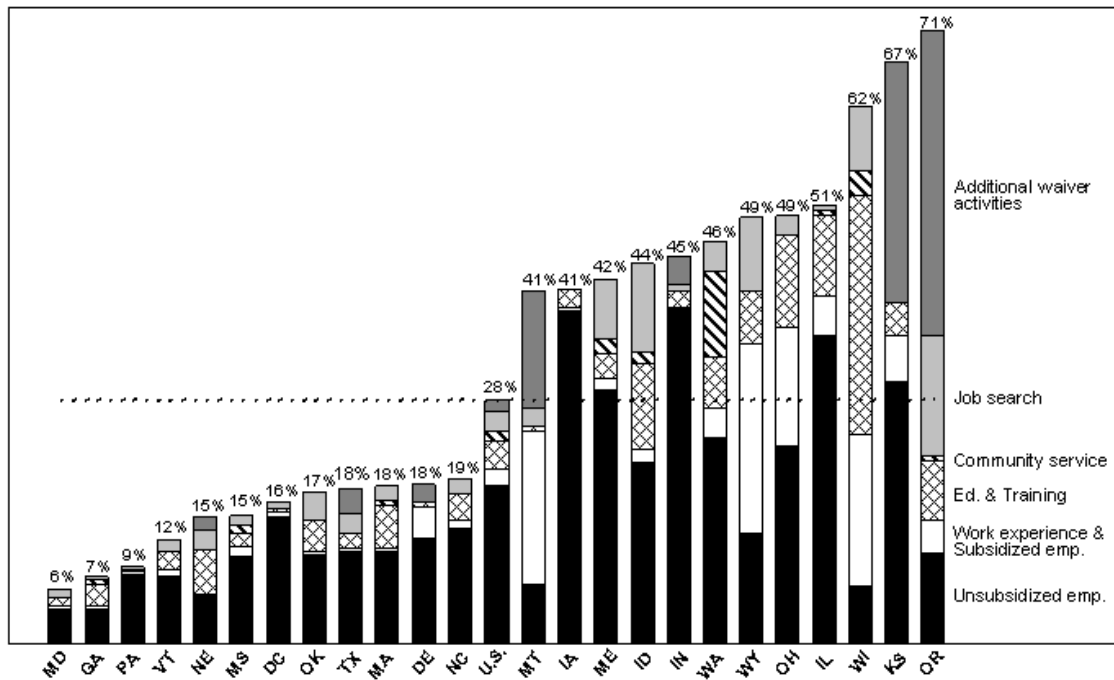
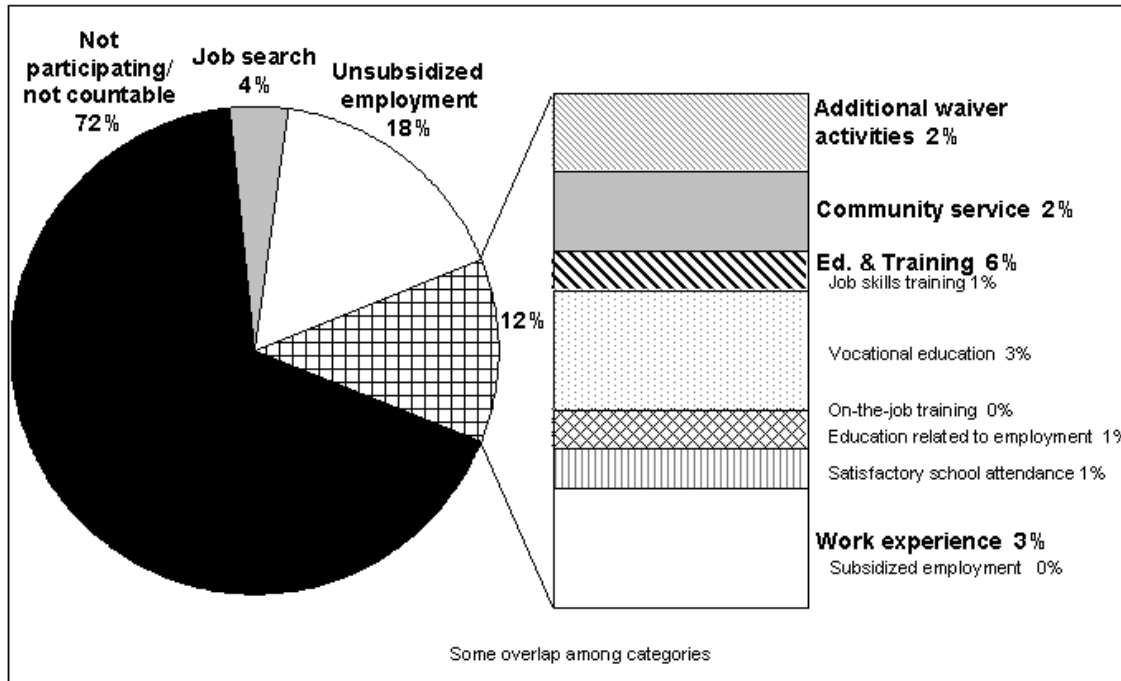


Figure 3
Countable Participation in TANF Activities
(National Composite, 2001)



Hence, we think the expansions will be mainly among these activities.³¹ Based on what the states have done since 1996 under TANF, we expect the expansion to be mainly in unsubsidized employment (because it is easy to implement) and community service (because it is so broadly defined). There may be smaller increases in work experience programs, on-the-job training programs, and subsidized employment. (S. XXX might also result in a small increase in postsecondary education under the “Parents as Scholars” program and in vocational education—or at least a reported increase in them.)

To a much lesser extent, we also expect states to adopt new procedures (and perhaps activities) to take advantage of the special rules for counting activities during three-month-periods (every twenty-four months). Some states may attempt to expand various qualifying activities, such as substance abuse counseling or treatment, rehabilitation treatment and

³¹The following discussion makes no distinction between H.R. 4 and S. XXX activities because they are essentially the same, except that, as table A-10.1 portrays, some H.R. 4 activities would be countable for shorter periods of time.

services, mental health services, and domestic abuse services. As described below, under both bills a state could apparently even count parenting and marriage-strengthening activities, as well as activities developed for recipients not typically expected to work—the elderly, disabled, or those with health problems—such as counting the time these recipients spend applying for Supplemental Security Income (SSI), in counseling or education, or participating in activities with their children.

This leads us to conclude that H.R. 4 and even S. XXX could raise actual participation rates (and costs)—but only marginally. Unfortunately, this small increase is purchased at an enormous cost: much greater programmatic complexity and a great likelihood of widespread sham activities. It served the purposes of both sides to ignore these realities, but the political stalemate over TANF’s reauthorization shows that was the wrong strategy.

“Common Ground” Recommendations

Both authors of this report are strongly sympathetic to raising participation rates among welfare recipients. Much of the caseload decline since 1994 was driven by a strong economy for entry-level workers and the impact of job search and other work first activities on those who could leave welfare for work or had other forms of support. Few states have made a concerted effort to involve recipients in activities that build human capital and specific job skills. So we would welcome more such activities.

But we also believe that the contents of welfare programming are best left to the states. The TANF block grant provides a sufficient incentive for states to control welfare caseloads, and they are certainly better situated to determine what activities to require of recipients. Moreover, the structure of the block grant would allow a determined state to avoid nearly any new participation rate requirements imposed by Washington.

Nevertheless, if there must be federal participation requirements, we recommend developing a common ground between H.R. 4 and S. XXX that would simplify administration processes while making participation requirements more realistic, more enforceable, and more closely focused on activities that encourage work and build human capital. In the following pages, we describe such a Common Ground proposal that establishes a middle road in participation requirements between the two bills—with one exception, we would impose a *real and enforceable requirement that at least 10 percent of the adult caseload be in a work experience or education and training activity.*

Here are our Common Ground recommendations:

Establish genuine participation requirements. As this analysis illustrates, even without the addition of H.R. 4’s or S. XXX’s provisions, TANF’s participation requirements are complex, difficult to understand, and easily circumvented. Both bills would accentuate

these problems, S. XXX substantially more than H.R. 4.

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

Both H.R. 4 and S. XXX take the same approach. They assert a required participation rate of 70 percent, presumably to show that they are raising participation requirements from current law. And then, like current TANF, they create one exclusion, exception, and credit after another that sharply reduce the formal increase in participation requirements. How else to interpret S. XXX's employment credit, which essentially lowers the required participation rate by 20 percentage points, back down to current TANF's 50 percent—without states having to do anything new or additional?

The same is true for H.R. 4's putative requirement that all single mothers participate for forty hours a week. It is now clear that participation will be defined so broadly that nearly any activity will count for the hours beyond the basic twenty-four-hour requirement. (This point is discussed in greater detail below.)

These seemingly high participation requirements became an easy target for criticism: a 70 percent participation rate would be unattainable and forty hours of participation would be difficult to achieve and could be a heavy burden on some families. They also created an exaggerated impression of how much more child care would be needed, thereby strengthening the arguments of those pushing for additional federal child care aid—even though the key actors understood that the actual requirements were much lower.

None of the credits and exclusions embedded in current law and either bill are needed to give states an incentive to reduce caseloads, and neither are needed to reward state success in reducing their caseloads. (H.R. 4's superachiever credit has no apparent programmatic justification.) The additional block grant funds that are freed up as a consequence of the caseload declines should be sufficient on both accounts.

- *Drop all participation rate credits, including H.R. 4's caseload reduction credit (or at least prevent its application to caseload declines due to separate state programs) and superachiever credit and S. XXX's employment credit—because they are too generous and might easily be gamed, and, instead, rely on the incentives built into the block grant to encourage states to reduce caseloads. (Given the elimination of the additional hours requirement recommended below, S. XXX's proportional credit should also be dropped.)*

If these credits must be kept, they should be modified. First, H.R. 4's recalibration of the caseload reduction credit should not permit states to obtain a credit simply by creating one or more separate state programs. (Separate state programs should still be allowed because they can be a vehicle for program innovation, as in the case of those related to child welfare needs.)³² Second, S. XXX's employment credit should not double the benefit of someone leaving welfare for work. (Some version of the president's employment credit might be considered.)³³

- *Drop the exclusions for cases in the first month of assistance and with a child under age one—because they add unnecessary administrative complexity and, instead, rely on job search at application to achieve the same goal.*

These exclusions would require additional paperwork, have little substantive merit (because such mothers should be engaged in activities), and would not have as much impact as some might expect (because many families in both groups are already participating). Better to shed these awkward exclusions and make a corresponding liberalization of countable job search activities.

Abandon participation requirements that will become a sham. Current TANF sets the participation requirement for two-parent families at 90 percent. No state could achieve this rate without the help of the caseload reduction credit and, even then, many could not. As a result, about twenty states created separate state programs for two-parent families that effectively negated the provision. Happily, both H.R. 4 and S. XXX shed this unreachable requirement. Unhappily, H.R. 4 and, to a lesser extent, S. XXX add their own.

One troublesome requirement is that families, including those headed by single mothers, “participate” for up to forty hours a week under H.R. 4 and thirty-four hours under S. XXX (twenty-four hours for single mothers with a child under age six). This has been a much-criticized requirement but, instead of simply abandoning it, both bills—coupled with statements of senior administration officials—have other provisions that make it possible to fill the

³²It may be necessary, however, to give HHS the authority to disallow specific MOE or TANF spending on separate state programs.

³³For most states, the Administration's employment credit would be less generous than S. XXX's because it would not double the number of employed leavers counted as participants and would add the number to both the numerator and the denominator of the participation rate calculation. Moreover, the Administration's proposal does not include the state options for extra credit for leavers that obtain relatively high-paying jobs or allow states to count recipients of diversion payments, child care, and transportation assistance.

How much more generous is the S. XXX employment credit? Most analysts expect that all states will have credits in excess of 20 percent, its eventual cap. The Administration's credit would be worth, in 2003, about 12 percent nationally, according to HHS, ranging from a low of 5 percentage points in the District of Columbia, Illinois, and Pennsylvania to a high of 27 percentage points in Oregon. [U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, “How Much Is the Administration Employment Credit Worth – Preliminary Estimates,” April 10, 2003.]

additional hours of participation with meaningless activities, particularly under the broadly defined category of “community service.”

Just about all observers believe that states will fill the hours of required participation after the initial twenty-four hours of direct work activities with easily met requirements only tenuously related to increasing employability or increasing family or child well-being. As described in Appendix A-3, states could count the time that recipients spend volunteering in organized activities with their own children, such as at a Head Start center, school, Girl or Boy Scouts, after-school program, or other recreational activities. States could also count time recipients spend in marriage-strengthening activities, parenting classes, or other activities designed to improve child well-being. Some have suggested that a state could even count time parents spend helping their children with homework or taking them to various activities, because such participation could be viewed as strengthening families and promoting child well-being.

Regardless of what the drafters intended, given this reality, these additional hours of required participation are likely to be seen as a sham requirement by administrators, by frontline workers, and by recipients. That would be a catastrophe.

As Senator Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee, argues: “There’s so much subterfuge involved in how you qualify for the 40 hours that I think it might be more intellectually honest to stick with something less than 40 to make sure that it’s legitimate work.”³⁴ The hours of participation ought to reflect what is needed to leave welfare and what is good for children.

- *Set the required number of hours of participation at twenty-four hours for single mothers with a child under age six and thirty-two hours for all other families (including one-parent families with no children under age six and two-parent families). Drop the requirement of additional hours of participation in direct or nondirect work activities—because it is not needed in all cases and will lead to sham activities. (Given the elimination of the additional hours requirement recommended above, S. XXX’s proportional credit should also be eliminated.)*

If the requirements for additional hours cannot be simply dropped, one could substitute a required “Family Development Plan” in which recipients describe how they will use the rest of the work week to improve their employability, strengthen family ties, and improve their children’s well-being. (This would be a modified version of the “Self-sufficiency Plan” in both bills and of the “Individual Responsibility Plan” in current law.) If properly structured, such plans might have more impact than the easily avoided requirement of additional hours.

³⁴Shannon Holmes, “House Passes Welfare Reauthorization,” *U.S. Mayor Articles*, June 3, 2002, available from: http://www.usmayors.org/uscm/us_mayor_newspaper/documents/06_03_02/welfare.asp, accessed April 21, 2003.

TANF currently allows states to set their own sanction policies for noncompliance with participation requirements. H.R. 4 seeks to toughen the enforcement of participation requirements by requiring that states completely remove from TANF assistance families that do not comply with participation requirements for more than one month (called a “full-family sanction” as opposed to a “partial sanction”). However, states wishing to avoid a federal requirement of full-family sanctions could easily do so by, for example, creating separate state programs or child-only cases.

- *Drop H.R. 4’s requirement of full-family sanctions on the ground that it could be easily avoided—and, instead, rely on the fact that sanctioned cases still count against participation requirements. (Keep S. XXX’s post-sanction exemption because it encourages continued state attention on such families.)*

The post-sanction exclusion should be maintained because families with partial sanctions would remain in the calculation of participation rates (except for the first three months), giving states an incentive to move them into countable activities.

Both H.R. 4 and S. XXX contain lists of relatively specific direct work activities that would be counted toward each bill’s participation rate requirements. But both also allow states to count other, less favored activities for shorter periods of time (generally three months). The existing three-month-activity provisions would make countable just about any activity that a state might want to offer (even those that do not involve an increase in expenditures or actual services), so most observers assume that they merely reduce required participation rates. But if they were used to provide actual services, their arbitrary three-month limit could cut off programs or services that might more effectively be provided for longer periods of time.

- *Drop the various complicated three-month-activity rules in both bills and create one simple provision that allows the counting of nondirect work activities in both bills for **up to six months** in any twelve-month period (and drop S. XXX’s “additional” three-month provision)—to simplify administration and allow programs sufficient time to provide their services.*

Establish realistic required participation rates. We are strongly supportive of higher actual participation rates, but the required 70 percent participation rate in both bills is neither realistic nor real. It is a political artifact resulting from the attempt to raise participation rates without acknowledging that the current TANF’s 50 percent requirement turned out to be meaningless.

What would be a realistic requirement? Under current TANF, less than half a dozen states have participation rates approaching or exceeding 70 percent, and most reach these levels only through waivers. The major exception is Wisconsin, which, over a period of years, has maintained between 70 and 80 percent of its adult caseload in work-oriented activities. (There was some shifting of recipients, primarily the disabled, to a separate state program.) But

Wisconsin achieved this by essentially abolishing its cash-welfare system and substituting a system based almost entirely on work.³⁵ W-2 participants are assigned to either subsidized or unsubsidized work slots based on their employability. (Current and former recipients are also eligible for a range of program services intended to help them find or retain employment, increase their skills or wages, and overcome barriers to employment.)

For states not prepared to undertake such a radical change in their welfare systems, New York City probably represents the high-water mark for participation. As Demetra Nightingale and her colleagues at the Urban Institute point out, “the experiences in New York City in the 1990s as it attempted to revamp the entire welfare system—organizationally and philosophically—offer important lessons about the feasibility and limits of (1) implementing large scale work experience programs; (2) restructuring and modernizing a large, entrenched bureaucracy; and (3) adapting service programs to changing policy and economic conditions and caseload characteristics.”³⁶

New York City requires recipients either to work in a paid job while on welfare (“unsubsidized employment”)³⁷ or to participate in its Work Experience Program (WEP), which typically combines a structured work assignment for all recipients who can work with education, training, and job search activities designed to increase employability and earnings. The city calls this “engagement,” and, by December 1999, it reached “full engagement.”

But full engagement, as New York City defines it, includes the following activities (our nomenclature) that would not be countable under TANF: “Participating but insufficient hours,” “In engagement process,” “In sanction process,” “Sanctioned” (not eligible for exclusion), and “Unengageable.”³⁸ That would translate into a participation rate of only about 40 (if one

³⁵Two types of welfare families were not included in W-2 because the adult caretakers were not considered appropriate for the program’s work requirements. Children whose parents received Supplemental Security Income (SSI) and could not work due to illness or incapacity were converted to the Caretaker-Supplement program. In addition, children living with non-legally responsible relatives such as a grandmother or aunt, and who otherwise might be placed in foster care, were converted to the state’s Kinship Care program.

³⁶Demetra Smith Nightingale, Nancy Pindus, Frederica D. Kramer, John Trutko, Kelly Mikelson, and Michael Egner, *Work and Welfare Reform in New York City During the Giuliani Administration: A Study of Program Implementation* (Washington, DC: Urban Institute Labor and Social Policy Center, July 2002), p. 3.

³⁷TANF calls this “unsubsidized employment,” but that clearly is a misnomer because the families continue to receive welfare payments, which can be a substantial portion of their original grants. First the Clinton Administration and now the Bush Administration have helped muddy the waters by repeatedly reporting that large percentages of welfare recipients were “working,” which suggested to many that they were in work experience programs, when, in fact, the vast majority were taking advantage of expanded earnings disregards to combine work and welfare.

³⁸New York City does not include recipients considered “Unengageable” when determining whether “full engagement” has been achieved, but we include this category in our estimate of the city’s participation rate because most families in the category would be counted in the determination of participation rates under H.R. 4 and S. XXX.

excluded all exclusions and credits in current TANF, as well as H.R. 4 and S. XXX). In the context of H.R. 4 and S. XXX, if all or most of those with partial sanctions began participating and if all or most of those with insufficient hours increased their hours of participation sufficiently to be counted, the participation rate could rise to as high as 65 percent. But those are two big ifs.

Table 4
Full “Engagement” in New York City

— November 2001 —

Engagement Status	Percent		
Participating with sufficient hours^a			41%
Direct work activities		39%	
Combining work and welfare	20%		
Work experience (usually with other activities)	8%		
Subsidized employment	2%		
Education and training	4%		
Community service (needed at home)	4%		
Nondirect work activities		2%	
Substance abuse	1%		
Wellness/rehabilitation	1%		
Other	0%		
Participating but insufficient hours^a			11%
Direct work activities		9%	
Combining work and welfare	4%		
Work experience (usually with other activities)	2%		
Subsidized employment	0%		
Education and training	1%		
Community service (needed at home)	1%		
Nondirect work activities		1%	
Substance abuse	0%		
Wellness/rehabilitation	0%		
Other	0%		
In engagement process			12%
Call-in appointment scheduled		9%	
Eligibility call-in appointment scheduled		0%	
Assessment scheduled		3%	
In review process		0%	
In sanction process			15%
Conciliation conference		11%	
Awaiting conciliation scheduling		3%	
Fair hearing		1%	
Sanctioned (not eligible for exclusion)^b			12%
Not engaged			0%
Unengageable			11%
Social Security case		3%	
Case head over age 60		1%	
Temporarily incapacitated		2%	
Child under 3 months		1%	
SSI pending/appealing		2%	
Temporarily exempt		1%	
Other work limitations		1%	

Source: Douglas J. Besharov and Peter Germanis, *Work Experience in New York City: Successful Implementation, Uncertain Impact, and Lessons for TANF's Participation Requirements* (Washington, DC: American Enterprise

Institute, March 21, 2003).

Note: The total does not sum to 100 percent due to rounding.

^a The participation data for New York City did not include information on hours of participation. Our estimate of the number of recipients participating with “sufficient hours” and with “insufficient hours” is based on statewide data for New York that show that, in 2001, about 78 percent of TANF recipients who participated in any TANF activity satisfied the participation requirements. [Authors’ calculations based on U.S. Department of Health and Human Services, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: Author, February 2003), p. III-111 and p. III-119, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

^b An additional 4 percent of the adult caseload was under sanction but qualified for the post-sanction exclusion.

In fact, only about a dozen states have achieved a 50 percent participation rate, and, again, mostly because of waivers. Hence, at this time, a 50 percent or so required participation rate would seem to be the *highest* rate that could be reasonably expected of states, absent adding the kinds of exceptions and exclusions that are in current law, H.R. 4, and S. XXX.

- *Set the required participation rate at 50 percent of the adult caseload.*

A more realistic required participation rate would reduce the pressure on states to seek ways to escape the new requirements entirely, such as through separate state programs.

Even a 50 percent rate, however, might not be reachable unless families unable to participate were excluded from the calculation. Some substantial proportion of the national caseload has a disability or other physical or mental work limitation that might preclude participation in most countable activities. Other families may have a substance abuse problem, a learning disability or limited basic (reading or English-language) skills, be victims of domestic violence, or have a disabled child. For many states, now and for at least the next five years, developing meaningful programs for such families would pose a large and expensive challenge.

- *Establish a disability exclusion (capped at 15 percent)—to accommodate the need to exempt the disabled from a true 50 percent participation requirement.*

In recommending a 15 percent cap, we assume that another 5 percent of the caseload might be in the process of being assessed for a possible disability or work limitation, which could itself be a countable activity.

Emphasize building human capital. Most of the caseload decline resulted from a strong economy for entry-level workers and the impact of job search and other work first activities on those mothers who could leave welfare for work or had other forms of support. Many of those still on welfare need more help to overcome poor education, low skills, and other barriers to employment. But few states have made a concerted effort to involve these difficult-to-reach mothers in activities that build human capital and specific job skills. Neither bill, in our opinion, is sufficiently supportive of such activities.

Given the loopholes in current law, as well as in H.R. 4 and S. XXX, it seems preferable to give states the maximum flexibility in choosing activities they might require, including education and training activities. The point of participation, after all, is to increase employability while imposing a disincentive to continuing on assistance.

- *Broaden the definition of direct work activities to include education and training activities as well as all TANF’s “core” activities and all the direct work activities in H.R. 4 and S. XXX—to give states maximum flexibility in experimenting with different activities.*

To avoid abuse, however, the countability of time doing homework and other nonclassroom activities should be subject to HHS regulation.

Although current TANF provides a small incentive against providing education and training, the fact is that most states have never been eager to provide either to large numbers of recipients. States will continue to place relatively few recipients in work experience programs or education and training unless they are forced to do so (or provided a very large financial incentive). In 2001, about 5 percent of all TANF families with an adult were in work experience, subsidized employment, or an education and training activity and had enough hours to be counted as participating.³⁹

Under both H.R. 4 and S. XXX, however, whatever increase in participation that occurs will likely be through broadly defined and largely meaningless community service activities or through more families combining work and welfare (by increasing the state’s earnings disregards). Neither activity is likely to make a significant impact on welfare dependency.

- *Establish a separate minimum participation rate for work experience, on-the-job training, and other designated forms of education and training of 10 percent—to add a needed focus on activities that build human capital. Because of the porousness of the borders between TANF activities, especially since the legislation does not define them, the specific activities counted toward this requirement should be subject to regulation, but might include work experience, on-the-job training, subsidized*

³⁹Authors’ calculations based on U.S. Department of Health and Human Services, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: Author, February 2003), p. III-106, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. The 5 percent estimate represents the number of recipients in an education and training activity after adjusting for potential overlap with other activities, as described in Appendix A-5. This estimate, however, may understate the number of recipients in an education and training activity because participation in some activities, such as postsecondary education, is not countable under current TANF.

employment, mandatory community service,⁴⁰ community or public service jobs, supported work, vocational educational training, classroom occupational training, job skills training, education related to employment, education for teen heads of household, remedial education, English as a Second Language, secondary education, and postsecondary education. (Some education activities could be combined with work experience, and, in fact, there might be a mandate to that effect.)⁴¹

Because this requirement is applied to all TANF cases with an adult present (that is, there are no exemptions or exclusions), in contrast to the putatively higher required participation rates in H.R. 4 and S. XXX, a 10 percent required rate for narrowly defined activities is actually more difficult to escape.

As much as anything, job search, job readiness, and work first activities have characterized welfare reform since 1994. They seek to encourage applicants (and recipients) to look for work and to give them skills to do so successfully. Specific activities can include classroom instruction on job-seeking skills, help in completing job applications and preparing resumes, access to phone banks, and job clubs or other forms of peer support. Job search and other work first activities also can discourage mothers from seeking or staying on welfare, because they add to the burden of applying for or being on assistance—what welfare professionals often call “smoke out” and “hassle.”

The law should encourage states that have not already done so to establish an application process that contains systematic job search and work first activities that help and encourage applicants to find alternatives to welfare by requiring them to look for a job.

- *Count job search at application for up to six weeks without any special limitations—because the limitations in current TANF, H.R. 4, and S. XXX could be easily avoided and good policy would be for everyone who applies for assistance to go through some form of job search assessment.*

Compared to current TANF (and S. XXX), counting job search at application with none of the special limitations more than doubles the percentage of the caseload that can be counted in the activity, because it includes those returning to welfare after a brief exit who otherwise might not be counted because they had used their six weeks of job search in an earlier spell of

⁴⁰Community service activities could be included in the 10 percent but only if their definition were narrowed to include only those activities that provide a benefit to the community and to exclude self-improvement and child rearing activities.

⁴¹In New York City, for example, after an initial period when the city required participation in its work experience program only, the city decided to combine work experience with education and training activities. See Douglas J. Besharov and Peter Germanis, *Work Experience in New York City: Successful Implementation, Uncertain Impact, and Lessons for TANF's Participation Requirements* (Washington, DC: American Enterprise Institute, March 21, 2003).

assistance.⁴² (For those states concerned, if configured as “independent” job search, doing so would cost very little.)

Remove marriage penalty. Both bills make provision for \$1.5 billion in marriage promotion and strengthening activities. Although some have criticized this proposal, the connection between family breakdown and welfare dependency is widely appreciated and some version of these provisions is almost certainly to be in any bill that passes. But that is not all a reauthorized law should do.

Under current TANF, a single parent, usually a mother, faces a participation requirement of twenty or thirty hours per week (depending on whether she has children under age six). Two-parent families, however, are required to participate for thirty-five hours. Thus, under current law, if a single mother marries someone who is not earning enough for the family to leave welfare, the hours of required participation would rise by as much as fifteen hours per week. (Any hours he is working would be counted toward that total.) In addition, TANF imposes a separate and higher required participation rate of 90 percent on two-parent families.

Both bills would eliminate the separate, 90 percent required participation rate for two-parent families, but only H.R. 4 would drop the higher hourly participation requirement for two-parent families. S. XXX would leave the disparity in place by increasing the two-parent-family hourly requirement, from thirty-five to thirty-nine hours. Hence, if she marries, a single mother with a child under age six would see her family’s hours of required participation rise from twenty-four to thirty-nine hours. There is no telling whether this is a major impediment to marriage, but it is easy to see it leading some couples to decide against marriage.

Hence, as mentioned above, we would set the required number of hours of participation at twenty-four for single mothers with a child under age six, and thirty-two hours for all other families (including one-parent families with no children under age six and two-parent families) (see table 5).

⁴²Because few recipients exit and apply for assistance more than once in any twelve-month period, this is the equivalent of allowing job search for up to twelve weeks (in two six-week periods) per year for those who leave and return to welfare. (We assume that the number leaving and returning for a third time would be negligible.) According to HHS, about 9 percent of TANF adults are in the first month of assistance, suggesting that as many as 13 percent could be in the first six weeks of assistance and potentially countable if participating in a job search activity.

Table 5
Required Weekly Hours of Participation

— Direct Work Activities/Total Hours Required —

Provision	Single mother (w/child under 6)	Single mother (w/no child under 6)	Two-parent families (regardless of child's age)
Current TANF	20/20	20/30	30/35
H.R. 4	24/40	24/40	24/40
S. XXX	24/24	24/34	34/39
Common Ground	24	32	32

Comparing Impacts and Costs

Besides ideological and political differences, the greatest obstacle to developing an agreed-upon reauthorization bill has been the very large range of possible costs for either H.R. 4 or S. XXX. In this section, we provide comparisons of each bill's impact on participation rates and costs.

How much additional participation? The more than 200 pages of this report are boiled down to the results presented on table 6. By our calculation:

- H.R. 4, *with states creating separate state programs and claiming the caseload reduction credit*, can be expected to raise participation levels by only about 20,000 adult recipients (out of about 1.4 million) because about 181,000 adult recipients could be placed in separate state programs that would trigger a caseload reduction credit.
- H.R. 4, *without a caseload reduction credit* (a possible result of the legislative process), can be expected to raise participation levels by about 67,500 adult recipients (out of about 1.4 million) because about 249,000 adult recipients could still be placed in separate state programs, although without triggering a caseload reduction credit.
- H.R. 4, *without any separate state programs* (the way some advocates argue that the bill would be implemented), can be expected to raise participation levels by about 243,000 adult recipients (out of about 1.4 million).
- S. XXX, *which does not have a caseload reduction credit*, can be expected to raise participation levels by about 13,000 adult recipients (out of about 1.4 million), because about 120,000 adult recipients could still be placed in separate state programs, although without triggering a caseload reduction credit.

- S. XXX, *without any separate state programs* (the way some advocates argue that the bill would be implemented), can be expected to raise participation levels by about 72,000 adult recipients (out of about 1.4 million).⁴³
- Common Ground, *with separate state programs*, can be expected to raise participation levels by about 99,500 adult recipients (out of about 1.4 million) because about 80,500 adult recipients could still be placed in separate state programs, although without triggering a caseload reduction credit.
- Common Ground, *without any separate state programs*, can be expected to raise participation levels by about 134,000 adult recipients (out of about 1.4 million).

As the foregoing demonstrates, whether H.R. 4 or S. XXX generate increases in participation depends on how the states decide to implement them. The range of increased participants in work-related activities is:

- Under H.R. 4, from about 20,000 to about 243,000.
- Under S. XXX, from about 13,000 to about 72,500.
- Under Common Ground, from about 99,500 to about 134,000.

Thus, these bills could increase participation by as little as about 3 percent and by as much as 54 percent. As the foregoing figures indicate, our Common Ground proposal results in a maximum of increased participation about midway between the two bills while providing a real floor in participation.

⁴³Although the CBO believes most states would meet the participation requirements by creating separate state programs or averting the requirements in other ways, it developed two estimates of the child care costs associated with S. XXX. Under one scenario it assumes that states would be able to count a “broad range of activities, including unsupervised and self-reported activities,” while in the other scenario it assumed that HHS would limit the allowable activities and require states to add more structure to them. This estimate conforms to the first scenario, which assumes that states would be able to count a “broad range of activities.” Using this approach, it estimated that, in 2008, states would need to place an additional 83,000 recipients in countable activities for enough hours to satisfy the participation requirements (compared to our estimate of about 72,000 additional recipients). To estimate the additional work and child care costs associated with S. XXX, however, the CBO also assumed that states would try to place 25 percent more recipients than the minimum needed (or 104,000), in case some of those required to participate did not satisfy the requirements. [See U.S. Congress, Congressional Budget Office, “Potential Cost to States of Meeting Proposed Work Requirements: Based on Senate Finance mark-up documents and clarifications by staff,” unpublished cost estimate, September 10, 2003.]

Table 6
Additional Participation and Child Care Costs Under Various Proposals

— State-by-State Cumulative in Billions of 2002 Dollars —

Proposal	Additional job search^a	Additional three- or six-month activities^b	Additional work exp., and education and training (10% required)^c	Additional needed direct work participation	Total additional participation^e	Additional child care costs in 2008^f	Additional program costs in 2008^g	Cases in separate state programs
H.R. 4	13,676	4,890	0	1,340	19,906	\$0-.063	\$0-.068	181,203
H.R. 4 (w/o caseload reduction credit)	29,145	17,440	0	21,123	67,708	\$0-.215	\$0-.233	249,140
H.R. 4 (w/o separate state programs)	38,831	25,419	0	178,817	243,067	\$0-.772	\$0-.836	0
S. XXX	13,168	0	0	0	13,168	\$0-.042	\$0-.045	120,079
S. XXX (w/o separate state programs)	56,458	8,782	0	7,049	72,289	\$0-.230	\$0-.249	0
Common Ground (with separate state programs)	20,365	5,767	73,280	0	99,412	\$.232-.316	\$.252-.342	80,225
Common Ground (w/o separate state programs)	43,870	16,938	73,280	0	134,080	\$.232-.426	\$.252-.461	0

Note: The lower bound of each cost estimate assumes that states could place recipients in “additional job search,” “additional three- or six-month activities,” and “additional needed direct work participation” at no additional cost because participation could be in a broad range of activities, including unsupervised and self-reported activities that involve no additional cost. (Even “additional needed direct work participation” could be in broad community service activities.) The upper-bound estimate assumes that participation in these activities, as well as “additional work experience, and education and training (10% of adult caseload)” would involve real costs for each additional participant.

^aThe number of recipients reflects the increase in participation in job search beyond the number of recipients counted as participating in job search in the base participation rate. For H.R. 4, this reflects job search as a three-month activity. For S. XXX, this reflects job search as a six-week direct work activity followed by job search as a three-month activity. For Common Ground, this reflects job search as a six-week activity, but without any special limitations, effectively allowing job search for up to twelve weeks (in two six-week periods) per year for those who leave and return to welfare. Additional participation is counted only if needed to help meet the participation requirements and only up to the amount needed.

^bThe number of recipients reflects the increase in participation in activities that are not considered direct work activities and can be counted only as three- or six-month activities beyond the number of recipients counted as participating in such activities in the base participation rate. For H.R. 4 and S. XXX, this reflects participation in a three-month activity in the second and third twenty-four month periods. For Common Ground, this reflects participation in a six-month activity once every twelve months. Additional participation is counted only if needed to help meet the participation requirements and only up to the amount needed.

^cFor Common Ground, this reflects the additional participation needed to satisfy the separate minimum participation rate for work experience and education and training programs of 10 percent.

^dThis reflects the additional participation needed to satisfy participation requirements after applying all the provisions associated with each bill or proposal.

^eThis reflects the total additional participation in “job search,” “three- or six-month activities,” “work experience, and education and training,” and “additional needed direct work participation” required to satisfy participation requirements after applying all the provisions associated with each bill or proposal.

^fThe additional costs for child care are based on the following assumptions: 85 percent of the adults that would be required to participate have a child under age thirteen, families average 1.68 children, 50 percent of the children receive a subsidy, and the average cost of a CCDF-subsidized child care slot is \$4,450 per child (in 2002 dollars).

^gThe additional program costs for administration of sites, etc., is based on the 2008 cost of \$3,440 per “work program” slot (in 2002 dollars) multiplied by the number of additional recipients that would be required to satisfy the participation requirements.

What about added costs for administration and child care? How much would spending have to increase to cover the added costs for administration and child care? Remember, we believe that almost all states can meet H.R. 4's and S. XXX's participation requirements *without expanding services or spending* because of the broad definitions of countable activities. But if we are incorrect—or if states chose to expand their programming—then annual costs could rise as much as \$1.6 billion by 2008 (in 2002 dollars). Adopting a modified version of CBO scoring,⁴⁴ here are the actual ranges:

- For H.R. 4, additional costs for administration of sites, etc., could range from \$0 to \$836 million, additional costs for child care could range from \$0 to \$772 million, and total additional costs could range from \$0 to \$1.608 billion.
- For S. XXX, additional costs for administration of sites, etc., could range from \$0 to \$249 million, additional costs for child care could range from \$0 to \$230 million, and total additional costs could range from \$0 to \$479 million.
- For Common Ground, additional costs for administration of sites, etc., could range from \$252 million to \$461 million, additional costs for child care could range from \$232 million to \$426 million, and total additional costs could range from \$484 million to \$887 billion.

The lower-bound estimates assume that states could place recipients in “additional job search,” “additional three- or six-month activities,” and “additional needed direct work participation” at no additional cost because participation could be in a broad range of activities, including unsupervised and self-reported activities that involve no additional cost. (Even “additional needed direct work participation” could be in broad community service activities.) The upper-bound estimate assumes that participation in these activities, as well as “additional

⁴⁴U.S. Congress, Congressional Budget Office, “Potential Cost to States of Meeting Proposed Work Requirements: Based on Senate Finance mark-up documents and clarifications by staff,” unpublished cost estimate, September 10, 2003.

- To estimate the additional costs for administration of sites, etc., we multiply the CBO's estimated 2008 cost of \$3,440 per “work program” slot (in 2002 dollars) by the number of additional recipients that would be required to satisfy the participation requirements.
- To estimate the additional costs for child care, we use CBO's assumptions that 85 percent of the adults that would be required to participate have a child under age thirteen (the age cutoff for CCDF eligibility) and that these families, on average, have 1.68 children. This results in an estimate of the maximum number of additional children requiring child care. Of course, not all families eligible for child care will elect to receive a subsidy. Like the CBO, we assume a 50 percent take-up rate to determine the number of children that would require a subsidy. We multiply the resulting number of children by the average cost of a CCDF-subsidized child care slot—\$4,450 per child (in 2002 dollars), based on the average cost per child under the CCDF in 2001.

work experience, and education and training (10% of adult caseload)” would involve real costs for each additional participant.

It is this wide range of possible costs that has complicated the argument about whether both bills’ higher participation requirements are an unfunded mandate. On one hand, analysts like the CBO (and us) think states can avoid all new expenses if they wish to do so. On the other hand are those who either think that the states cannot avoid additional costs or are willing to make that argument to gain more funding for the states. In any event, existing funds under both TANF and the CCDF would be sufficient to cover expansions of these magnitudes, albeit at the cost of other state activities now supported by block grant funds. (The latter is a strong argument, as described below.)

But what if there were a decision to reimburse (or reward) the states for the increased costs of expanding participation? How would the amount of reimbursement be set? Put simply, there is no way to know in advance what the states would do. And, in any event, would it not vary widely from state to state? Hence, the choice is either to rely on the political process to pick an amount or to establish a formula that rewards or reimburses states for *real* expansions in participation. That is what we suggest.

- *Reimburse states for the **added** costs of administration and child care that result from increased participation by means of a predetermined formula that is tied to the additional amount of participation.*

Some will argue that further increases in child care funding are needed for nonTANF families or at least for families that have left TANF for work. There may or may not be a need for more federal child care assistance for such families, but, either way, the argument should not be in the guise of the need to meet additional needs caused by higher required participation rates.

The basic argument put forward by those seeking additional child care funding is that CCDF funding should be increased to reflect inflation. Sharon Parrott and her colleagues at CLASP, for example, argue that, “the level of child care assistance in the pending TANF reauthorization bills is well *below* the levels needed simply to keep child care services for low-income working families from shrinking in coming years.”⁴⁵ It is arguable, however, that the CCDF should be adjusted for inflation.

First, federal child care aid to the states has increased mightily in the last decade, and there is good evidence that the states do not want to spend at the pace of past increases.

⁴⁵Sharon Parrott, Jennifer Mezey, Mark Greenberg, and Shawn Fremstad, *Administration Is Misstating Amount of Child Care Funding in Pending TANF Reauthorization Bills* (Washington, DC: Center for Law and Social Policy, December 15, 2003), p. 4, available from: http://www.clasp.org/DMS/Documents/1071588118.09/CC_funds.pdf, accessed February 17, 2004.

- Between 1997 and 2002, federal funding available through the CCDF increased nearly 120 percent (about \$2.6 billion in 2002 dollars), from about \$2.2 billion to about \$4.8 billion. About \$940 million of CCDF funds remained unobligated as of the end of fiscal year 2002, and another \$2.2 billion had been “committed” but not yet spent.
- Other major programs that provide child care services have also seen their funding increased far faster than inflation. Between 1997 and 2002, child care spending on just five programs—Head Start, Title I (for preschool children), the Social Services Block Grant (for child care), and the Child and Adult Care Food Program—increased nearly 50 percent (by more than \$3.2 billion in 2002 dollars), from \$6.870 billion to \$10.109 billion.

Second, the states have enjoyed a financial windfall from the TANF block grant, and again it appears that they do not want to spend all the money available on child care.

- Between 1997 and 2002, the states enjoyed a \$59 billion cash windfall (in 2002 dollars) from the decline in the TANF caseload and the concomitant reduction in spending on assistance and administration.⁴⁶ In 2002, alone, the windfall was \$13.4 billion. About \$2.7 billion of these TANF funds remained unobligated as of the end of fiscal year 2002, and another \$3.1 billion had been “committed” but not yet spent. Although these funds go to many programs, child care probably receives the most. However, because there are essentially no limits to how states may use these funds, many billions have been used to “substitute” for preexisting state spending.

Putting aside these considerations, how much would the CCDF have to be increased to reflect projected inflation rates? Some advocates, such as those at CLASP, cite a CBO estimate⁴⁷ that an additional \$4.5 billion in child care funding would be needed over five years

⁴⁶Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, “U.S. Caseloads Information,” various years, (Washington, DC: U.S. Department of Health and Human Services, February 6, 2004), available from: <http://www.acf.dhhs.gov/news/stats/newstat2.shtml>, accessed February 19, 2004; and U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, various years). This estimate is derived by multiplying each year’s caseload decline by the average annual benefit for families receiving cash assistance (about \$4,800 per family in 2002 dollars) and associated administrative costs (about \$500 per family in 2002 dollars). The windfall for each year is then summed to derive the cumulative savings over the 1997–2002 period.

⁴⁷Congressional Budget Office, “Preliminary Staff Estimate: Child Care Base Line,” unpublished table provided by Donna Wong to Peter Germanis. February 1, 2004. See also Sharon Parrott, Jennifer Mezey, Mark Greenberg, and Shawn Fremstad, *Administration is Misstating Amount of Child Care Funding in Pending TANF Reauthorization Bills* (Washington, DC: Center for Law and Social Policy, December 15, 2003), available from: http://www.clasp.org/DMS/Documents/1071588118.09/CC_funds.pdf, accessed February 17, 2004.

just to offset “the effects of inflation on child care funding and thereby avert a *reduction* in child care services or child care slots, *even if there were no increase in TANF work requirements.*”⁴⁸ Such statements incorrectly leave the impression that *federal spending* should be increased by this amount just to offset the effects of inflation.

- The CBO estimate *includes state expenditures* under the CCDF, which are inappropriate for determining how much additional federal funding is necessary. According to the CBO, between 2004 and 2008, federal CCDF funds will represent just 69 percent of total CCDF expenditures.
- The CBO estimate also *includes state TANF expenditures* on child care and state transfers of TANF funds to the CCDF. According to the CBO, between 2004 and 2008, federal CCDF funds will represent just 43 percent of total CCDF and TANF funding for child care. TANF funds alone represent 38 percent of the total funding assumed in the CBO’s baseline projection. Although TANF funds are one element of child care funding, they come from a separate funding source, one from which states regularly draw on for a wide variety of purposes, including child care.
- The funding deemed necessary is *expressed in “current” dollars*, which reflects the effects of inflation in future years. In 2002 dollars, the \$4.5 billion increase shrinks to about \$4.1 billion.

Taking these considerations into account—and starting in 2002, the historic high point of CCDF funding—the inflation-adjusted 2008 figure for the CCDF would be \$550 million, and a total of \$1.808 billion for the period from 2004 to 2008 (both in 2002 dollars) (see table XXX). We make no estimate of an inflation-adjusted figure for the TANF block grant because the states have diverted such a large amount of money from it to other, nonwelfare purposes.

⁴⁸Sharon Parrott, Jennifer Mezey, Mark Greenberg, and Shawn Fremstad, *Administration Is Misstating Amount of Child Care Funding in Pending TANF Reauthorization Bills* (Washington, DC: Center for Law and Social Policy, December 15, 2003), p. 3, available from: http://www.clasp.org/DMS/Documents/1071588118.09/CC_funds.pdf, accessed February 17, 2004.

Table 7
Federal CCDF Funding and Inflation Adjustments

— 1997–2008 —
(\$ in millions)

	Current funding (current \$)	Current funding adjusted for inflation (2002 \$)	Additional funding needed to keep up with inflation from 2002 (2002 \$)
1997	\$1,986	\$2,227	
1998	\$3,070	\$3,388	
1999	\$3,167	\$3,420	
2000	\$3,550	\$3,709	
2001	\$4,567	\$4,639	
2002	\$4,817	\$4,817	
2003	\$4,817	\$4,710	\$107
2004	\$4,817	\$4,634	\$183
2005	\$4,817	\$4,551	\$266
2006	\$4,817	\$4,462	\$355
2007	\$4,817	\$4,363	\$454
2008	\$4,817	\$4,267	\$550
2004–2008			\$1,808

Source: Melinda Gish, *Child Care: Funding and Spending under Federal Block Grants* (Washington, DC: Congressional Research Service, March 19, 2002).

Note: Funding levels for 2003–2008 adjusted for inflation based on projections of inflation found in Office of Management and Budget, *Fiscal Year 2004 Mid-Session Review: Budget of the United States* (Washington, DC: Executive Office of the President, July 15, 2003).

Conclusion

Much of the reauthorization debate has been over H.R. 4's and S. XXX's seemingly large increases in participation requirements. As the foregoing explains, the participation requirements in both bills are actually much lower than the political rhetoric suggests, largely because of provisions that authorize exclusions and exemptions from participation requirements, the continued potency of the caseload reduction credit or the new employment credit, the use of independent job search as a low-cost activity, other three-month activities, and

the ability of states to avoid the full bite of federal requirements by adopting one or more separate state programs.

By our calculations, only about six states would not meet H.R. 4's participation requirements if the steps we outline are taken, and no state would fail to meet S. XXX's. Moreover, the actual burden on the few states that would have to raise participation rates seems manageable, at least as long as caseloads do not rise substantially. But a substantial rise in caseloads would create a bigger burden, especially under H.R. 4. If the rises are widespread, however, the national politics of welfare reform would undoubtedly change. That said, for the reasons given above, our H.R. 4 estimates are highly dependent on the successful application of the caseload reduction credit.

Even though states wanting to escape either bill's new participation requirements would be able to do so by abusing various provisions, we think most will not try to do so, both because they will not want to appear to be eviscerating welfare reform and because the new requirements will be attainable, with reasonable effort and expenditures. Hence, as stated above, our results lead us to conclude that H.R. 4 and even S. XXX could raise actual participation rates (and costs)—but not nearly as much as claimed. The increase is likely to be modest, and our *ballpark estimates* are that S. XXX is unlikely to raise participation by more than 5 to 15 percent, and probably less than 5 percent. And H.R. 4, especially because of the uncertainty associated with the caseload reduction credit, could lead to somewhat larger increases, perhaps 5 to 55 percent, but most likely less than 10 percent. In comparison, our Common Ground proposal could lead to increases between the two; that is, from 20 to 30 percent, and most likely closer to the lower number.

APPENDICES

A-1. Participation Requirements

In an attempt to raise participation rates, both H.R. 4 and S. XXX would increase the proportion of the adult Temporary Assistance for Needy Families (TANF) caseload that must be participating in designated activities and the number of hours in such activities.

On the surface, H.R. 4 would require the national participation rate to rise from its current level of about 33 percent (as measured pursuant to H.R. 4's rules) to 70 percent, and from about thirty hours per week (twenty hours for a mother with a child under age six) to about forty hours per week.⁴⁹ Similarly, S. XXX also would seem to require the national participation rate to rise from its current level of about 36 percent (as measured pursuant to S. XXX's rules) to 70 percent, and from about thirty hours per week (twenty hours for a mother with a child under age six) to about twenty-four hours for a mother with a child under age six and thirty-nine hours for a two-parent family.⁵⁰

Neither the required participation rates nor hours of participation are quite what they seem. This section describes these key provisions together with some of the ways that states can be expected to avoid them or minimize their impact. A later section tries to predict how the states will actually respond.

Required Rates

Under the current version of the TANF, enacted in 1996, the required participation rate progressively increased to its maximum of 50 percent of the caseload in 2002. (In most states, the large drop in welfare caseloads triggered caseload reduction credits that reduced effective participation requirements to zero.) Both H.R. 4 and S. XXX would raise the minimum required participation rate.

- **H.R. 4** would raise the minimum required participation rate by 5 percentage points each year, beginning at 50 percent in 2004 and going to 70 percent in 2008. (H.R. 4 would

⁴⁹The base participation rate includes an estimated 5 percent of TANF adults who provide continuous care for a disabled child or other dependent and would be counted as participating in a community service activity.

⁵⁰The base participation rate includes an estimated 5 percent of TANF adults who provide continuous care for a disabled child or other dependent and would be "deemed" as satisfying S. XXX's participation requirements. We also assume that S. XXX's proportional credit would raise the base participation rate by 8 percent (3 percentage points for the national composite caseload) because the extra hours of participation in various "other activities" would increase the number of recipients counted toward the total requirements.

eliminate the separate and higher required participation rate for two-parent families.) As under current law, states that do not meet their applicable participation rate would be subject to a financial penalty in the form of a reduction in their TANF grant.

- **S. XXX** would also raise the minimum required participation rate to 70 percent in 2008 and, like H.R. 4, it would allow states to adopt various options, authorized and not, to mitigate or escape the higher requirements. It would also eliminate the higher two-parent participation rate, as does H.R. 4. As under current law, states that do not meet their applicable participation rate would be subject to a financial penalty in the form of a reduction in their TANF grant.

These statutory rates, however, are merely the first step in a series of calculations that establish the participation requirements a state actually faces, which, as we will show, could be much lower. Essentially, the calculation starts with the state's total caseload for the previous year (2001 in our calculations), subtracts those types of cases that are excluded from the calculation, and then applies the relevant caseload reduction credits. (The result is then compared to the number of recipients participating in countable activities for the requisite number of hours.)

Because the number of recipients required to participate depends, in part, on the total caseload, reducing the size of the caseload makes it much easier for a state to meet participation requirements. Thus, we (and many other observers) expect states to step up their diversion and work first efforts, probably within the context of a more intensive application process (discussed below). A welcome byproduct of such actions might be additional caseload declines that could trigger an increase in the caseload reduction credit (under H.R. 4), further reducing required participation rates.⁵¹

We also expect states to create "separate state programs" that are not subject to TANF's participation requirements (discussed below). This would be the easiest way for a state to avoid H.R. 4's and S. XXX's new requirements, of course. Doing so could also trigger a caseload reduction credit. (Under some limited circumstances, states may return to TANF categories of cases it previously transferred to separate state programs, primarily two-parent families.)⁵²

Required Hours

Both H.R. 4 and S. XXX would increase the required hours of participation, from the current thirty hours per week (twenty hours for a mother with a child under age six), and they would both require the first twenty-four hours of participation to be in a "direct work activity"

⁵¹See Appendix A-7 and Appendix A-8.

⁵²See Appendix A-9.

and allow participation in the required additional hours to be in a broader range of activities.

H.R. 4 would increase the required hours of participation, from the current thirty hours per week (twenty hours for a mother with a child under age six) to what H.R. 4 says is forty hours per week.⁵³ Although most commentary suggests that H.R. 4 would set a weekly standard of 40 hours, the actual calculation would be based on the total number of countable hours in a month, divided by 160. Because most months have more than four full work weeks, with up to twenty-three work days, in most months the actual standard would be about thirty-seven hours per week.

The forty-hour requirement would be divided between (1) “direct work activities” (at least twenty-four hours) and (2) “other activities” (a maximum of sixteen hours) that “address” TANF’s general purposes.⁵⁴ As we will see, the definition of these terms is sufficiently broad to allow states to include a host of work, training, and education activities, as well as other activities not traditionally considered work- or education-related. (The twenty-four hour

⁵³In 2002, TANF’s “all-family,” or total participation rate, required that at least 50 percent of families with an adult (or minor child head of household) participate in work activities for at least thirty hours per week. The thirty-hour rule, however, does not apply to single parents with a child under age six and teen parents who maintained satisfactory attendance at secondary school (or participated in education directly related to employment for twenty hours per week). For them, twenty hours of participation satisfies the requirement. The thirty-hour participation requirement consists of two parts. The first twenty hours of participation must be in one of nine core activities, including unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, on-the-job training, job search and job readiness assistance, community service, vocational educational training (subject to a twelve-month limit), and provision of child care to a community service participant. The second ten hours of participation can be in any of the core activities or in any of the following three additional activities: job skills training directly related to employment, education directly related to employment, and satisfactory school attendance at secondary school. (The latter two activities are limited to those without a high school diploma or equivalent.)

⁵⁴The actual calculation of the number of recipients who satisfy H.R. 4’s participation requirements is somewhat more complex than this simple twenty-four hour plus sixteen-hour construction. To be counted as a participant, an adult must have participated for at least twenty-four hours in a “direct work activity.” The calculation of the forty-hour requirement, however, is based on the total number of hours participants spend in direct work or other activities. Thus, although four adults participating for thirty hours each would not individually meet the forty-hour requirement, the number of hours they participate would satisfy the requirement for three participants. It should be noted, however, that given the loose definition of the activities that can satisfy the sixteen-hour requirement (described below), this averaging option may not be needed to bring most families meeting the twenty-four-hour requirement up to the required forty hours of participation.

In addition, although H.R. 4 would mandate a minimum of twenty-four hours per week in “direct work activities,” it sets no maximum on the number of hours that could be counted, as it does with the maximum of sixteen hours per week in “other activities.” Thus, a recipient combining work and welfare for thirty hours per week (a direct work activity) could also have sixteen hours in other activities, such as time spent with her children in recreational activities and doing homework, for a total of forty-six hours. Such a recipient could balance another recipient with twenty-four hours of direct work activities and just ten hours of participation in other activities. Thus, a state may encourage participation beyond forty hours per week for any participant with more than twenty-four hours of participation in a direct work activity to take advantage of H.R. 4’s flexibility in averaging hours of participation.

requirement for direct work activities applies to all TANF families with an adult present; there would not be a higher requirement for single mothers with no children under age six or for two-parent families.)

S. XXX would also increase the required hours of participation, although less so than H.R. 4. And, unlike H.R. 4, it would create several different hourly standards. In general, the weekly requirement would be:

- *For single parents with a child under age six: twenty-four hours.*
- *For single parents with no children under age six: thirty-four hours.*
- *For two-parent families: thirty-nine hours (or fifty-five hours if they received subsidized child care).*

S. XXX would determine the average weekly hours of participation by dividing the total number of countable hours in a month by four. Because most months have more than four full work weeks, with up to twenty-three work days, in most months the actual standards would be twenty-two hours, thirty-one hours, thirty-six hours, and fifty-one hours, respectively.

A family that meets or exceeds these standards would be counted as a full participant. These hourly requirements would be divided between (1) “direct work activities” and (2) “other qualified activities.” For a single parent (regardless of the age of the children), the first twenty-four hours of participation would have to be in a direct work activity, after which participation could be in any allowable activity. As described below, the range of allowable activities would not be as broad as in H.R. 4, but would be sufficiently broad to allow states to count most work, training, and education activities, as well as other activities. Thus, both bills have what, in effect, is a twenty-four hour requirement for single mothers. (Two-parent families would have to participate at least thirty-four hours in a direct work activity, or fifty hours if the family receives subsidized child care and has no disabled member. Because there are so few two-parent families receiving assistance, we do not model this provision.)

In addition, S. XXX would give proportional or additional participation credit based on the number of hours of participation relative to the required number of hours. There would be partial credit for single-parent families that participate in a direct work activity for at least twenty hours per week, but less than the twenty-four hours per week required for a single parent with a child under age six and thirty-four hours per week (twenty-four of which must be in a direct work activity) required for a single parent with a child age six or older. For example, a single parent participating just twenty hours per week would count as a “0.675 family.” (Under H.R. 4, a recipient participating just twenty hours a week would generally not be counted at all.) Single-parent families that participate in a direct work activity for thirty-five or more hours per week would receive extra credit. For example, a single parent participating thirty-eight hours per week would count as a “1.08 family.” The hourly requirements for partial,

full, and extra credit are illustrated in table A-1.1.

S. XXX would make it easier than would H.R. 4 for some recipients to be counted toward the participation requirements, but harder for others. For example, it would provide partial credit for single parents participating twenty to twenty-three hours per week, whereas H.R. 4 would not. But it would establish a higher requirement for two-parent families, requiring thirty-nine hours of participation per week,⁵⁵ which would make it more difficult for them to be counted than under H.R. 4. Because the number of recipients in either group is small, we assume the two requirements would offset each other and we do not model them.

S. XXX would also give extra credit for single-parent families that participate thirty-five or more hours per week. As described below, the range of countable activities becomes very broad once the twenty-four hour direct work activity requirement has been satisfied, including many training, education, and other activities that would otherwise not be countable toward the direct work activity requirement. We assume that anyone who satisfies the twenty-four hour direct work activity requirement could easily satisfy S. XXX's requirement for full participation as well as its requirement for the maximum amount of extra credit and would thus be counted as a "1.08 family." The easiest way would be for a state to increase the number of required hours of participation in either independent job search or a broadly defined barrier removal or community service activity. (Hence, we proportionately increase the number of adult recipients who satisfy S. XXX's participation requirements by 8 percent, increasing the base participation rate from 33 percent to 36 percent. Some states, however, may take the proportional credit requirement more seriously, so our estimator allows users to enter their own estimate of the amount of proportional credit that could be claimed.)

As described above, H.R. 4 also has what is, in effect, a limited proportional credit for families that do not meet the full forty-hour requirement, but, unlike the Senate bill's provision, it is unlikely to have a substantial impact on participation rates. For those who meet the twenty-four hour requirement, it would allow partial and extra credit toward the remaining sixteen-hour requirement. Because we assume that any family that meets H.R. 4's twenty-four hour direct work activity requirement could easily satisfy the remaining sixteen-hour requirement, the provision has little practical effect on the participation rate calculation.

Moreover, if approved by HHS, a state could count some recipients in a three-month activity as full participants even if they participated for less than the twenty-four hour minimum for direct work activities. This would be allowed if a state could demonstrate that participation is "part of a substantial and supervised program whose effectiveness in moving families to self-sufficiency is superior to any alternative activity" and its effectiveness would be "substantially impaired" if recipients were required to participate the full twenty-four hours.

⁵⁵It would provide partial credit for two-parent families that participate at least twenty-six hours per week.

Table A-1.1
Proportional Credit for Hours of Participation

— S. XXX —

Size of Credit	Single-parent family		Two-parent family	
	Child under 6	Child 6 or older	W/o child care	W/child care
0.675 family	20–23 hrs.	20--23 hrs.	26–29 hrs.	40–44 hrs.
0.75 family	n/a	24--29 hrs.	30--34 hrs.	45--50 hrs.
0.875 family	n/a	30--33 hrs.	35--38 hrs.	51--54 hrs.
1.0 family	24--34 hrs.	34 hrs.	39 hrs.	55+ hrs.
1.05 family	35--37 hrs.	35--37 hrs.	40--42 hrs.	56--58 hrs.
1.08 family	38+ hrs.	38+ hrs.	43+ hrs.	59+ hrs.

Source: See U.S. Senate, "Personal Responsibility and Individual Development for Everyone Act," October 3, 2003, available from: <http://thomas.loc.gov/cgi-bin/query/C?c108:./temp/~c108jq5awA>, accessed October 21, 2003.

Fair Labor Standards Act. The requirement of twenty-four hours of direct work activities (under either H.R. 4 or S. XXX) would be subject to the rules of the Fair Labor Standards Act (FLSA), which limits the maximum number of hours of participation in a work-like activity to the amount of a family’s TANF grant divided by the minimum wage. (The only exception might be for those recipients in “community service” activities who do not meet the FLSA’s classification of “employee.” As explained below, community service can probably include a parent caring for a disabled child or other dependent, as well as volunteering in a school or a Head Start program, as a scout leader, or as a member of a Parent Teacher Association (PTA) committee, and may even include participation in life skills classes, job readiness programs, sheltered workshops, substance abuse treatment, mental health counseling, and family violence counseling.)

For most activities, however, the family’s monthly benefit would have to be \$494 to satisfy a twenty-four hour per week participation requirement based on the federal minimum wage of \$5.15 per hour.⁵⁶ Depending on the state and family size, the result of this calculation may not be enough to meet H.R. 4’s proposed twenty-four hour requirement in many circumstances. In 2001, for example, the TANF grant for a family of three was below \$494 a

⁵⁶As with H.R. 4’s forty-hour per week requirement, this calculation assumes that the monthly standard for this calculation is based on four weeks, or ninety-six hours per month. Because most months have more than four full work weeks, the actual standard would be about twenty-two hours per week. (Although H.R. 4 is silent on how the twenty-four-hour per week calculation would be computed on a monthly basis, the most likely approach would probably be to multiply the weekly standard by four, which is how H.R. 4 directs the calculation of the forty-hour per week standard.)

month in thirty-eight states and the District of Columbia.⁵⁷ These states would be unable to require twenty-four hours of participation in work experience or a similar activity without violating the minimum wage requirement. However, under the federal Food Stamp Program, a state can count the cash value of food stamps toward participation requirements if it adopts a food stamp workfare program.⁵⁸ In addition, a state can adopt a Simplified Food Stamp Program (SFSP), which would conform its food stamp exemptions to those of its TANF program. For example, the Food Stamp Program exempts single parents with a child under age six from participation. Adopting an SFSP would allow a state to count food stamp benefits toward the hours of required participation for this otherwise exempt group.

Even after including the value of the food stamp benefit in the calculation, however, many states would not be able to meet the twenty-four hour standard. All states can probably meet the standard for a family of three or more because the combined benefit is large enough. For a family of two, however, in 2000, the combined amount would not meet the twenty-four hour standard in twenty-three states (with about one-third of the nation's TANF caseload with an adult).⁵⁹ This is significant, because about 40 percent of TANF families consist of just two family members: one adult and one child.⁶⁰ Thus, nationally, the combined benefit would be too low for about 13 percent of families with an adult.⁶¹

The combined benefits may also not be enough for families that have unearned income (primarily Social Security and child support) and therefore do not receive the maximum TANF

⁵⁷Center for Law and Social Policy and Center on Budget and Policy Priorities, *Monthly Cash Assistance and Food Stamp Benefits For a Single-Parent Family of Three with No Earnings, 2001* (Washington, DC: Center for Law and Social Policy/Center on Budget and Policy Priorities, June 2001), available from: <http://www.spdp.org/tanf/financial/maxben2001.pdf>, accessed May 1, 2003.

⁵⁸Yvette S. Jackson, Deputy Administrator Food Stamp Program, "Workfare Options for TANF Participants Who Are Parents or Caretakers of Dependent Children," memorandum to Regional Administrators, May 23, 1997; and U.S. Department of Labor, Office of the Secretary, "How Workplace Laws Apply to Welfare Recipients," in *Labor Protections and Welfare Reform* (Washington, DC: U.S. Department of Labor, May 1997, Rev. February 1999), available from: <http://www.dol.gov/asp/w2w/welfare.htm>, accessed May 1, 2003.

⁵⁹Authors' calculations based on U.S. Congress, House of Representatives, Committee on Ways and Means, *2000 Green Book* (Washington, DC: U.S. Government Printing Office, October 6, 2000), pp. 387–388.

⁶⁰Authors' calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-188, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

⁶¹Data on the percentage of families with one adult and one child were not available by state, so we assumed the 40 percent figure applied nationally.

grant.⁶² In 2001, about 7 percent of TANF families with an adult had unearned income (averaging \$315 per month), but in some states this percentage was considerably higher.⁶³ In Kentucky, for example, 49 percent of families had unearned income averaging \$243 per month. If this income reduced the combined TANF and food stamp benefit for a family of three from the maximum of \$603 per month to \$360 per month, it would also reduce the corresponding hours of work-related participation that could be required from 117 hours per month to 70 hours per month, or 26 hours short of the 96 hours per month required in direct work activities.

Finally, some TANF families do not receive food stamps, so there is no food stamp benefit to add to the calculation. In 2001, about 10 percent of TANF families with an adult did not receive food stamps and in many states this percentage was considerably higher.⁶⁴

What happens when a state cannot require a full twenty-four hours per week of participation in direct work activities? Tommy Thompson, secretary of the U.S. Department of Health and Human Services (HHS), has said that states would be considered to have met the requirement by requiring the maximum number of hours allowable, even if that falls short of the twenty-four hours: “Our proposal also says that if you only meet the 17 hours and that is all you can do to meet the minimum wage, that is satisfactory.”⁶⁵

Some have questioned the Secretary’s authority to “deem” state compliance in this way, but, in any event, such a process may raise fairness as well as legal issues. For example, it

⁶²The treatment of unearned income varies from program to program. For example, Supplemental Security Income (SSI) benefits are not counted as income in determining TANF eligibility or benefits, but the SSI recipient cannot be part of the TANF assistance unit. Social security benefits, on the other hand, are counted and reduce the TANF grant dollar for dollar. In some states, a portion of child support payments is disregarded in determining TANF eligibility and benefits. With a dollar-for-dollar offset, the food stamp grant would remain unaffected because the reduction in TANF would be offset by an increase in unearned income, keeping the total income counted for food stamp benefits the same.

⁶³The percentage of TANF families with an adult with unearned income is based on the percentage of TANF adults with unearned income. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-245, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

⁶⁴Authors’ calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-188, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

⁶⁵Tommy G. Thompson, “Statement,” before House Committee on Ways and Means, *President’s Plan to Build on the Success of Welfare Reform Featuring HHS Secretary Thompson: Hearing before the Committee on Ways and Means*, 107th Cong., 2nd sess., March 12, 2002, available from: <http://waysandmeans.house.gov/legacy/fullcomm/107cong/3-12-02/107-53final.htm>, accessed January 22, 2004.

is not clear whether Secretary Thompson was including the additional hours that could be required if a state exercised the food stamp options described above or, for that matter, whether states would be required to adopt a food stamp workfare program or an SFSP, or both.

And, of course, a state can always impose a direct work activity that does not trigger the FLSA. Within the terms of H.R. 4, that would probably only be a broadly defined community service activity (because the other possibilities would be limited to three months in a twenty-four-month period). For S. XXX, this could include (in addition to community service) job search and vocational educational training, subject to the limits on their duration.

A-2. “Direct Work” Activities

Current TANF requires twenty hours of participation in what HHS publications call nine “core” activities.⁶⁶ Both H.R. 4 and S. XXX, as we saw, would establish two categories of required hourly participation: “direct work activities” (roughly akin to TANF’s “core” activities) and “other activities.” These direct work activities are the heart of the requirements imposed by TANF, as well as H.R. 4 and S. XXX. (As later sections describe, under specified conditions, “other activities” can be deemed “direct work activities,” at least for short periods of time.)

The rhetoric surrounding both bills suggests that achieving the required level of participation in these activities will be difficult. However, because under both bills direct work activities would include broadly defined community-service activities, it should be easy for states to develop qualifying activities (barring a legislative or regulatory tightening) at no cost or low cost.

TANF’s “Core” Activities

Current TANF requires twenty hours of participation in what HHS publications call nine “core” activities. Under current TANF, state definitions for these work activities are often loose or essentially undefined (and have not been subjected to federal oversight). They can roughly be summarized as follows:⁶⁷

- “*Unsubsidized employment*,” that is, paid employment in a regular job with a public or private employer while still on welfare.⁶⁸
- “*Subsidized private sector employment*,” that is, employment with a private sector

⁶⁶The twenty-hour requirement applies to both single-parent and two-parent families counted toward the “all-family” participation rate. Two-parent families, however, must participate for thirty hours in these “core” activities to be counted toward the “two-parent family” participation rate.

⁶⁷In accordance with the legislative intent of the 1996 welfare reform law, HHS has allowed states considerable flexibility in the design of their work programs, including the definitions of various work activities. See generally U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families: Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17776, available from: <http://www.acf.dhhs.gov/programs/ofa/regla2.pdf>, accessed January 5, 2004.

⁶⁸TANF calls this “unsubsidized employment,” but that clearly is a misnomer because the families can take advantage of earnings disregards to combine work and welfare to continue to receive welfare payments, which can be a substantial portion of their original grants.

employer in which the participant's wages are subsidized by TANF or other public funds.

- “*Subsidized public sector employment*,” that is, employment with a public sector employer in which the participant's wages are subsidized by TANF or other public funds.
- “*Work experience*,” that is, unpaid work or training in return for welfare and to improve the employability of those who cannot find work.
- “*On-the-job training*,” that is, training provided by an employer in which the participant receives a wage and the employer is reimbursed for the cost of training.
- “*Job search and job readiness assistance*,” that is, a program or activity designed to encourage or require applicants (and recipients) to look for work and to give them skills to do so successfully (subject to specified limits on duration).⁶⁹
- “*Community service programs*,” that is, unpaid volunteer activities in which the recipient provides a service to the community at large.
- “*Vocational educational training*,”⁷⁰ that is, formal occupational skills training, rather than generalized academic instruction, designed to help individuals develop specific job or career skills.
- “*The provision of child care services to an individual participating in a community service program*.”

In addition, a teenage head of household either maintaining satisfactory attendance at a secondary school (or its equivalent) or participating in education directly related to employment for an average of twenty hours per week would satisfy TANF's participation requirements. (See table A-2.1.)

TANF also allows states to continue work activities authorized under a waiver in effect

⁶⁹Current TANF limits the amount of job search that can be counted toward participation requirements to six weeks per year for any individual and does not allow more than four of the weeks to be consecutive. An additional six weeks of job search can be provided if the state's unemployment rate is 50 percent higher than the national average or the state has experienced an increase in its food stamp caseload of at least 10 percent in the most recent three-month period.

⁷⁰Current TANF limits the number of months of participation in vocational education that can be counted toward participation requirements to twelve months for any individual, and the total number of recipients (including teen parents in high school or work directly related to education) may not exceed thirty percent of all countable participants.

on August 22, 1996. As explained above, many of these waivers allow states to operate their programs in ways that may be inconsistent with federal TANF provisions. In some states, these waivers allow participation in otherwise noncountable activities, such as substance abuse treatment and various education-related activities, to be counted toward the participation requirements.

H.R. 4's "Direct Work" Activities

H.R. 4 requires twenty-four hours per week of participation in "direct work activities."⁷¹ After renaming them direct work activities, H.R. 4 continues all of TANF's "core" activities except job search and job readiness assistance, vocational education training, and providing child care for participants in community service. H.R. 4 putatively narrows the scope of work experience and community service by adding a requirement that these activities be "supervised," but, as described below, the term could be so loosely defined that it provides no real limit on what could be considered either of these activities.

Although job search and job readiness assistance, vocational education training, and providing child care for participants in community service would not be explicitly authorized as direct work activities, under H.R. 4, states could continue to count participation in them under the three-month-activity rule. As described below, the three-month-activity rule would allow states to count participation in job search and any activity that addresses TANF's general purposes for up to three months in any twenty-four-month period.

Thus, for job search and job readiness assistance, the three-month-activity rule would allow states to count about as much job search as under current TANF in a twenty-four-month period (six weeks per year compared to three months in a twenty-four-month period), but double what would be countable in a twelve-month period. For vocational educational training, however, the three-month-activity rule would reduce the amount of time that could be counted from twelve months over an individual's lifetime under current TANF to three months in a twenty-four-month period under H.R. 4. Moreover, unlike current TANF, which imposes separate limits on how long participation in job search and vocational educational training can be counted, H.R. 4's three-month-activity rule would impose a single three-month limit in any twenty-four-month period on the counting of all activities not considered a direct work activity. Thus, if a recipient was already counted for three months in a vocational educational training program, any subsequent participation in job search or other qualified activities could not be counted until the end of the twenty-four months (see table A-2.1).

"Providing child care for TANF recipients in community service" is also not an H.R. 4

⁷¹U.S. Congress, House of Representatives, *Personal Responsibility, Work, and Family Promotion Act of 2003*, H.R. 4, 108th Cong., 1st sess. (February 4, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h4rs.txt.pdf, accessed December 30, 2003.

work activity, but recipients could be classified as being in “unsubsidized employment” if they are paid for providing such care, or under “work experience” if they are not paid but perform this in exchange for their welfare grant. Thus, for all practical purposes, even this activity is continued under H.R. 4.

There are also special rules for specifically focused educational activities. Participation in education and training that allows an individual to complete a certificate program or help fill a “known job need in the local area” would be countable for four months in a twenty-four-month period.⁷² In addition, like current TANF, a teenage head of household either maintaining satisfactory attendance at a secondary school or equivalent, or participating in education directly related to employment for an average of twenty hours per week, would satisfy H.R. 4’s participation requirements.

The presence of “supervised community service” in H.R. 4’s list of “direct work activities” would permit a state to count many activities that are not in any traditional sense considered “work” or “work-related.” Although community service is currently an authorized activity under TANF, neither the statute nor HHS regulations define the term. As a result, the states have had great freedom to stretch the definition of the term far beyond what might traditionally be considered community service.

Ordinarily, community service is taken to mean the provision of a service to people outside the family or to the community in general.⁷³ Under TANF, however, allowable use of the term has been broadened to include care for “disabled child or adult dependent.” For example, Georgia’s TANF plan states that, “Community service may be either outside of the home as a volunteer or in the home caring for a disabled household member. Medical documentation is required to establish the need for the recipient to remain in the home to care for a disabled household member.”⁷⁴ New York State defines community service to include recipients who stay home to care for an incapacitated family member or who serve as foster

⁷²Our model does not estimate the effect of this provision separately, but combines it with the three-month-activity rule. The estimator, however, allows users to enter their own estimate of the number of recipients participating in short-term activities—whether they be three-month or four-month activities.

⁷³See, for example, Colorado Department of Human Services, Office of Self-Sufficiency, “Colorado Works Rules Changes,” *Agency Letter*, August 17, 2000, available from: <http://www.cdhs.state.co.us/agency/TCW0015A.html>, accessed April 8, 2003, defining community service as “an unpaid activity in which the participant provides a service to the community at large.”

⁷⁴Georgia Department of Human Services, Division of Family and Child Services, *Georgia’s Temporary Assistance for Needy Families State Plan for FFY 2003* (Atlanta, GA: Georgia Department of Human Services, December 2002), p. 9, available from: http://dfcs.dhr.georgia.gov/vgn/images/portal/cit_1210/4920828TANF_Plan_FY2003.pdf, accessed September 23, 2003.

parents.⁷⁵

Caring for a disabled dependent could easily represent 5 to 10 percent of a state's caseload. The Congressional Budget Office, for example, estimates that 6.5 percent of "otherwise nonexempt" recipients would fall into this category.⁷⁶ Similarly, Sheila Zedlewski, director of the Urban Institute's Income and Benefits Policy Center, used the National Survey of America's Families to estimate that, in 2002, 8 percent of TANF adults receiving welfare reported having a disabled child on Supplemental Security Income (SSI).⁷⁷ Adding other dependents or adopting a looser definition of what constitutes a physical or mental impairment could increase this percentage further. Thus, counting such recipients as participants in a community service activity would provide a significant boost to the total participation rate.

A number of states have gone further and even defined community service to include self-improvement activities; that is, activities to improve the recipient's *own functioning*, such as participation in drug treatment programs, life skills classes, job readiness programs, sheltered workshops, substance abuse treatment, mental health counseling, family violence counseling, and other education and counseling services. For example, under the current TANF law, West Virginia counts a community service: "Life skills classes, parenting classes, dependent care, job readiness instruction, volunteer work, participation in a sheltered workshop, substance abuse treatment or mental health counseling."⁷⁸ The New York State Education Department says, "'Community service' and 'work experience' in particular could be broadly defined so that states can count programming that integrates basic skills upgrading with work experience,

⁷⁵New York's Office of Temporary and Disability Assistance gives localities flexibility in defining community service, but specifies that "an individual needed in the home because another member of the household requires his/her presence due to a verified mental or physical impairment shall be deemed to be engaged in community service to the extent such person is actually providing care for such member of the household." See New York State Department of Labor, "Section 1300.9: Work Activities and Work Requirements," in *Welfare-To-Work Employment Manual* (Albany, NY: New York State Department of Labor, August 1, 1999), p. 9-2, available from: <http://www.labor.state.ny.us/pdf/13009.pdf>, accessed February 3, 2003.

⁷⁶Sheila Dacey, e-mail message to Peter Germanis, January 30, 2004.

⁷⁷Sheila Zedlewski, "Work and Barriers to Work among Welfare Recipients in 2002," *Snapshots of America's Families*, no. 3, (Washington, DC: The Urban Institute, August 2003), p. 2, available from: http://www.urban.org/UploadedPDF/310836_snapshots3_no3.pdf, accessed January 28, 2004.

⁷⁸West Virginia Department of Health and Human Resources, Office of Family Support, "Community Service Programs," in *Income Maintenance Manual* (Charleston, WV: Department of Health and Human Resources, April 2001), sec. 24.10, available from: http://www.wvdhhr.org/ofs/Policy/IMManual/Manual%20PDF%20Files/Chapter24/ch24_10.pdf, accessed March 15, 2003.

federal college work study, and disability support toward work participation targets.”⁷⁹

In an attempt to impose structure on community service activities, H.R. 4 would require that they be “supervised” to count as a direct work activity. But because the term supervised was not part of the original TANF legislation, we can find little public discussion of what supervision entails. Available examples suggest that it could be quite loose. In New York City, for example, supervision of those in community service because they are “needed at home” to care for a family member is limited to being “called in” to the office every ninety days to verify their status.⁸⁰ In fact, it appears that supervision could even be monitoring by phoning the recipient. (Of course, the degree of actual supervision may not be that important, given the breadth of the term “community service.”)

A broadly defined community service program could be used to expand participation significantly (without necessarily increasing real participation). For example, in our national calculations, we assume that 5 percent of the TANF caseload with an adult is currently caring for a disabled child or other dependent and could be counted as community service participants. As explained above, this percentage could easily be higher. (Our estimator allows users to enter their own estimate of the number of community service participants.)

H.R. 4 would give HHS explicit regulatory authority over these definitions, making them “subject to such regulations as the Secretary may prescribe.”⁸¹ (As mentioned, current TANF does not define these activities, and it is not clear whether HHS now has the legal authority to use regulations to narrow their meaning.) A major question, therefore, is whether HHS will promulgate regulations under H.R. 4 that narrow the allowable meaning of these terms (assuming that Congress does not further define them). Although some supporters as well as some opponents of H.R. 4 predict that HHS will do so, we believe that—given this past history—a substantial narrowing of terms such as “community service” through regulations is unlikely absent a sufficiently strong statement of congressional intent.

S. XXX’s “Direct Work” Activities

S. XXX would count all nine of current TANF’s core activities as “direct work

⁷⁹New York State Education Department, “Overview of the Federal Welfare Reform Legislation,” (Albany, NY: New York State Education Department, undated), available from: <http://www.emsc.nysed.gov/workforce/welfare/wffed.html>, accessed March 15, 2003.

⁸⁰Seth Diamond, executive deputy commissioner of the Family Independence Administration, New York City Human Resources Administration, e-mail message to Peter Germanis, March 25, 2003.

⁸¹U.S. Congress, House of Representatives, *Personal Responsibility, Work, and Family Promotion Act of 2003*, H.R. 4, 108th Cong., 1st sess. (February 4, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h4rs.txt.pdf, accessed December 30, 2003.

activities,” rather than just the six counted by H.R. 4. Thus, in addition to including unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, on-the-job training, and community service (which are counted by H.R. 4), S. XXX would also count job search and job readiness assistance (subject to specified limits on duration),⁸² vocational educational training,⁸³ and providing child care for TANF recipients in community service. Unlike H.R. 4, however, it would not narrow the potential scope of work experience or community service activities by adding a requirement that such activities be “supervised.” In addition, like both current TANF and H.R. 4, a teenage head of household or married teen either maintaining satisfactory attendance at a secondary school (or equivalent) or participating in education directly related to employment for an average of twenty hours per week would satisfy S. XXX’s participation requirements.

Moreover, as mentioned above, if approved by HHS, a state could count some recipients in a three-month activity as full participants even if they participated for less than the twenty-four hour minimum for direct work activities. This would be allowed if a state could demonstrate that participation is “part of a substantial and supervised program whose effectiveness in moving families to self-sufficiency is superior to any alternative activity,” and its effectiveness would be “substantially impaired” if recipients were required to participate the full twenty-four hours.

S. XXX would also authorize the “Parents as Scholars” program, which would permit states to count toward participation requirements attendance in undergraduate postsecondary education (two- or four-year degree programs) and vocational education.⁸⁴ In addition to

⁸²S. XXX would retain current TANF’s six-week per year maximum limit on job search, but would remove its requirement that no more than four of the weeks can be consecutive. It would also modify TANF’s provision for allowing up to twelve weeks of job search, permitting an extended period during which job search can be counted if the state’s unemployment rate is 50 percent or more than the national average or, if as a result of economic conditions, the state experienced an increase in its TANF caseload of at least 5 percent and its food stamp caseload of at least 15 percent in the preceding two years. (The limit on how many weeks of job search can be counted would not apply to required hours of participation beyond the direct work activity requirement or, as described below, if combined with an additional three-month activity.)

⁸³Like current TANF, S. XXX would limit the number of months participation in vocational educational training that can be counted toward participation requirements to twelve months and the total number of recipients (including teen parents in high school or work directly related to education) may not exceed thirty percent of all countable participants. Recipients in the optional “Parents as Scholars” program, described below, would be excluded from the cap. (These restrictions would not apply to required hours of participation beyond the direct work activity requirement or, as described below, if combined with an additional three-month activity.)

⁸⁴This provision is modeled after legislation introduced by Senator Olympia Snowe, the “Pathways to Self-Sufficiency Act of 2003.” See U.S. Congress, Senate, *Pathways to Self-Sufficiency Act of 2003*, S. 603, 108th Cong., 1st sess. (March 12, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s603is.txt.pdf, accessed January 27, 2004.

counting the number of actual hours of class time and participation in “related activities,”⁸⁵ states would be required to count at least one hour of study time for every hour of class time (and could count no more than two hours), without any need to verify that such study time actually took place.⁸⁶ As a result, a recipient in postsecondary or vocational education for twelve hours per week could also be given credit for up to twenty-four hours of study time, for a total of thirty-six hours of participation. This would easily exceed the minimum hourly requirements for single-parent families. (Under current TANF, states do not have such broad flexibility in counting study time.)⁸⁷

Countable participation under the Parents as Scholars program (for either postsecondary and vocational education) would be subject to several minor restrictions. First, participation could be counted only for recipients whose past earnings indicate that they cannot obtain work that pays enough to allow them to attain self-sufficiency (as determined by the state) and to those who could benefit from educational activities. Because most TANF recipients have relatively low educational levels⁸⁸ and poor work histories, this condition does

⁸⁵Related activities include: “work study, practicums, internships, clinical placements, laboratory or field work, or such other activities as will enhance the eligible participant’s employability in the participant’s field of study, as determined by the State.” See U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

⁸⁶S. XXX includes an alternative hourly calculation in which a recipient who meets the full-time educational requirements of the degree or vocational education program could be considered in full compliance with the participation requirements, as long as the recipient participates in one of S. XXX’s direct work activities for a minimum number of hours. This minimum would be six hours per week the first year and would rise by two hours per week for each year of participation, reaching a maximum of twelve hours per week during a fourth or subsequent year of participation. A state could reduce the number of hours per week in direct work activities for good cause, if it determines the recipient has one or more significant barriers to participation. Because a state could broadly define a barrier to participation, it could reduce the number of hours of participation in these additional activities to zero for those with such barriers. As a result, this provision would appear to allow states to give full credit to virtually any participant in a full-time educational program.

⁸⁷In the preamble to the final TANF rule, HHS cautions states to consider the “reasonableness” of any study time: “. . . it is each State’s responsibility to define its work activities in a reasonable manner; thus a State could choose to include homework time as part of an activity. However, we encourage States to consider carefully how Congress intended to treat homework in determining ‘engaging in work’ to ensure that its interpretation is reasonable.” U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families (TANF): Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17779, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed January 5, 2004.

⁸⁸In 2001, about 97 percent of TANF adults had twelve or fewer years of education and nearly 50 percent had less than twelve years of education. See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-225, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

not appear to impose a serious constraint on participation. Second, recipients would be required to maintain satisfactory academic progress, as defined by the institution operating the postsecondary or vocational education program, and to complete their coursework within the normal timeframe for full-time students. (At state option, the timeframe for completion could be extended by 50 percent.) Third, the number of recipients that could be counted under this provision could not exceed 10 percent of the TANF caseload. Because the 10 percent figure is applied to the entire caseload, including child-only cases, this would be a larger percentage of the caseload actually subject to participation requirements. For example, nationally, 37 percent of the TANF caseload is composed of child-only cases, so the 10 percent maximum would translate into about 16 percent of the caseload with an adult.⁸⁹

Finally, a single parent who provides continuous care for a child or dependent with a physical or mental impairment would be counted as satisfying the participation requirements. (Under current TANF, some states have counted this as community service.)

⁸⁹Authors' calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families Program (TANF): Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-202, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/index.htm>, accessed February 25, 2003.

Table A-2.1
Countable “Direct Work” Activities

Current TANF vs. H.R. 4 vs. S. XXX

Activity	Core or Direct Work Activities During Basic Hours			Other Activities During Additional Hours		
	Current TANF (20 hrs.) ^a	H.R. 4 (24 hrs.) ^b	S. XXX (24 hrs.) ^c	Current TANF (10 hrs.) ^d	H.R. 4 (16 hrs.)	S. XXX (10 hrs.) ^e
TANF’s Core Activities						
Unsubsidized employment	yes	yes	yes	yes	yes	yes
Subsidized private sector employment	yes	yes	yes	yes	yes	yes
Subsidized public sector employment	yes	yes	yes	yes	yes	yes
Work experience	yes	yes (if supervised)	yes	yes	yes	yes
On-the-job training	yes	yes	yes	yes	yes	yes

Activity	Core or Direct Work Activities During Basic Hours			Other Activities During Additional Hours		
	Current TANF (20 hrs.) ^a	H.R. 4 (24 hrs.) ^b	S. XXX (24 hrs.) ^c	Current TANF (10 hrs.) ^d	H.R. 4 (16 hrs.)	S. XXX (10 hrs.) ^e
Job search and job readiness assistance	yes, but only for 6 weeks per yr; 12 weeks if state unemployment rate is 50% > national or food stamp caseload is 10% > preceding 3 months	yes, but only for 3 months out of 24	yes, but only for 6 weeks per yr; 12 weeks if state unemployment rate is 50% > national or TANF caseload is 5% > & food stamp caseload is 15% > preceding 2 yrs. Indirect, but only for 3 months out of 24	yes, but only for 6 weeks per yr; 12 weeks if state unemployment rate is 50% > national or food stamp caseload is 10% > preceding 3 months	yes	yes
Community service programs	yes	yes (if supervised)	yes	yes	yes	yes

Activity	Core or Direct Work Activities During Basic Hours			Other Activities During Additional Hours		
	Current TANF (20 hrs.) ^a	H.R. 4 (24 hrs.) ^b	S. XXX (24 hrs.) ^c	Current TANF (10 hrs.) ^d	H.R. 4 (16 hrs.)	S. XXX (10 hrs.) ^e
Vocational educational training	yes, but only for < 12 months	indirect (if addresses TANF purpose, but only for 3 months out of 24)	yes, but only for < 12 months; or ≤ 10% of TANF caseload (including post-secondary)	yes, but only for < 12 months	indirect (if addresses TANF purpose)	yes
The provision of child care services to an individual participating in community service	yes	indirect (if considered unsubsidized work or community service)	yes	yes	indirect (if considered unsubsidized work or community service)	yes
Education for teen parents	yes	yes	yes	yes	yes	yes
Work activities authorized under a waiver in effect on August 22, 1996	yes	indirect (if addresses TANF purpose, but only for 3 months out of 24)	indirect (if barrier removal or qualified rehabilitative activity, but only for 3–6 months out of 24)	yes	indirect (if addresses TANF purpose)	indirect (if barrier removal or qualified rehabilitative activity)
Additional S. XXX Activities						

Activity	Core or Direct Work Activities During Basic Hours			Other Activities During Additional Hours		
	Current TANF (20 hrs.) ^a	H.R. 4 (24 hrs.) ^b	S. XXX (24 hrs.) ^c	Current TANF (10 hrs.) ^d	H.R. 4 (16 hrs.)	S. XXX (10 hrs.) ^e
Parents as Scholars program for postsecondary and vocational education training	no	indirect (if addresses TANF purpose, but only for 3 months out of 24)	yes	no	indirect (if addresses TANF purpose)	yes
Caring for a child or adult dependent with a physical or mental impairment	indirect (if community service)	indirect (if community service)	yes	indirect (if community service)	indirect (if community service)	yes
Additional TANF Activities^e						
Job skills training directly related to employment	no	indirect (if addresses TANF purpose, but only for 3 months out of 24)	indirect (if barrier removal activity, but only for 3 months out of 24)	yes	indirect (if addresses TANF purpose)	indirect (if barrier removal activity)
Education directly related to employment (for recipients who lack h.s. diploma or equivalent)	no	indirect (if addresses TANF purpose, but only for 3 months out of 24)	indirect (if barrier removal activity, but only for 3 months out of 24)	yes	indirect (if addresses TANF purpose)	indirect (if barrier removal activity)

Activity	Core or Direct Work Activities During Basic Hours			Other Activities During Additional Hours		
	Current TANF (20 hrs.) ^a	H.R. 4 (24 hrs.) ^b	S. XXX (24 hrs.) ^c	Current TANF (10 hrs.) ^d	H.R. 4 (16 hrs.)	S. XXX (10 hrs.) ^e
Satisfactory school attendance at a secondary school for a recipient who has not completed high school	no	indirect (if addresses TANF purpose, but only for 3 months out of 24)	indirect (if barrier removal activity, but only for 3 months out of 24)	yes	indirect (if addresses TANF purpose)	indirect (if barrier removal activity)

Sources: U.S. House of Representatives, *Personal Responsibility and Work Opportunity Reconciliation Act of 1996: Conference Report to Accompany H.R. 3734* (Washington, DC: U.S. Government Printing Office, 1996), pp. 29–30; and “H.R. 4: Personal Responsibility, Work, and Family Promotion Act of 2003,” available from: <http://thomas.loc.gov/cgi-bin/query/z?c108:H.R.4>; accessed March 15, 2003, and U.S. Senate, Finance Committee, *Personal Responsibility and Individual Development for Everyone (PRIDE)*, September 9, 2003, available from: <http://www.senate.gov/~finance/sitepages/leg/090803pride.pdf>, accessed September 12, 2003.

Notes:

^a Under current TANF, the first twenty hours of participation must be in a set of nine core activities. Teen parents who maintain satisfactory attendance at a secondary school or equivalent or participate in education directly related to employment for an average of twenty hours per week are also considered to have satisfied the participation requirements.

^b Under H.R. 4, a recipient must participate at least twenty-four hours per week in one of six direct work activities or for three months in a twenty-four-month period in one of five qualified activities. Teen parents who maintain satisfactory attendance at secondary school or equivalent or participate in education directly related to employment for twenty hours per week are considered to have satisfied the participation requirements.

^c Under S. XXX, a recipient must participate at least twenty-four hours per week in one of nine direct work activities, the Parents as Scholars program, or for three months in a twenty-four-month period in one of five qualified activities and an additional three months in one of three qualified activities. (Two-parent families would have to participate at least thirty-four hours in a direct work activity, or fifty hours if the family receives subsidized child care and has no disabled member.) Teen parents who maintain satisfactory attendance at secondary school or participate in education directly related to employment for twenty hours per week are considered to have satisfied the participation requirements. Single parents who care for a disabled child or other dependent may be considered to have satisfied the participation requirements.

^d The “10 hrs” column under “other activities” refers to the additional hourly requirement for single parents without a child under age six. For teen parents or single parents with a child under age six, there is no additional hourly requirement. For two-parent families, there is an additional requirement of at least fifteen hours.

^e The “10 hrs” column under “other activities” refers to the additional hourly requirement for single parents without a child age six and older. For two-parent families, there is an additional requirement of at least fifteen hours.

^f “Indirect” means the activity is not specifically identified by the authorizing statute but is one that could be counted under either bill pursuant to another provision. For example, under H.R. 4, as an activity that addresses a TANF purpose, and under S. XXX, as an activity that is designed to remove a barrier to work or provide a qualified rehabilitative activity.

^g Additional TANF activities include three activities that are not core activities under TANF but that can be counted toward TANF’s additional hourly requirement.

A-3. “Three-Month” Activities

Both H.R. 4 and S. XXX contain lists of relatively specific direct work activities that would be counted toward each bill’s participation rate requirements. But both also allow states to count other, less favored activities for shorter periods of time (generally three months). The breadth of these provisions, which we call “three-month-activity” provisions, would allow states to count almost any activity they might want to offer. (H.R. 4 allows “any other activity” that “addresses” TANF’s general purposes, and S. XXX allows any state-defined activity “designed to remove barriers to work.”)

This flexibility would allow states to raise participation rates substantially at little or no added cost in two ways. First, it would allow them to count participation in activities that were not countable under TANF (and, thus, were not reported). Second, it would allow them to count participation in activities like independent job search, which states could require without a substantial increase in spending or services.

We estimate that the potential impact of this provision on the national participation rate could be 20 percentage points, with an additional 15 percentage points under S. XXX’s “additional” three-month-activity provision. (The actual impact, although still substantial, would be considerably smaller, because some recipients in the relevant three-month periods may not be identified by state officials or may already be participating in direct work activities and would be countable anyway.)

Countable Activities

The general rule under both H.R. 4 and S. XXX is that, to be counted toward the participation requirements, a recipient must participate for at least twenty-four hours per week in a “direct work activity.” (Under S. XXX, two-parent families must participate at least thirty-nine hours per week, or fifty-five hours per week if they receive federally subsidized child care, in one of these activities.) Both bills, however, carve out an exception to this rule, which we call “three-month-activity” provisions.

H.R. 4 would permit states to count just about any activity as a direct work activity for three months in any twenty-four-month period. The activities that this provision would *specifically* make countable are (1) “substance abuse counseling or treatment,” (2) “rehabilitation treatment and services,” (3) “work-related education or training directed at enabling the family member to work,” (4) “job search or job readiness assistance,” and (5) “any other activity” that “addresses” TANF’s general purposes. This last clause would make

countable an almost unlimited number of activities, for three months, at least. In fact, HHS Secretary Thompson has written that this provision would “allow states to designate just about *any* activity as work . . . ”⁹⁰

Thus, this provision provides a three-month window in which the states have almost unfettered freedom to fashion countable participation activities. Besides the activities enumerated above, a state could also count participation in such activities as vocational educational training, adult basic education, postsecondary education, life skills classes, sheltered workshops, skills assessment, mental health services, domestic abuse services, and adult literacy. A state could also include loosely defined unsupervised community service activities such as volunteering in a school or a Head Start program or serving as a scout leader or youth sports coach. In fact, a state could apparently go much further, and even count parenting and marriage-strengthening activities—because they, too, could be seen as addressing TANF’s general purposes.

Countable activities might even be developed for those recipients not typically expected to work, such as the elderly, disabled, or those with health problems. Given the broad flexibility states have in defining activities under this provision, a state could count the time these recipients spend applying for SSI, in counseling or education, or participating in various specified activities with their children. After the three-month period, the state could transfer such disabled recipients to a separate state program, thus allowing the state to maximize its participation rate by counting all recipients for at least three months, rather than moving them immediately to a separate state program.

S. XXX also has a three-month-activity provision that would permit other “qualified activities” to count for up to three months (in any twenty-four-month period), but it enumerates a different set of activities. In addition, for an additional three-months in any twenty-four-month period, it would make countable a narrower range of “qualified rehabilitative services.” (To avoid confusion with the first “three-month-activity provision,” we call this second period the “additional three-month-activity provision,” and discuss it separately below.)

S. XXX’s three-month-activity provision would also permit states to count just about any activity as a direct work activity. The activities that this provision would *specifically* make countable are (1) “postsecondary education,” (2) “adult literacy programs or activities,” (3) “substance abuse counseling or treatment,” (4) “state-defined programs or activities designed to remove work barriers,” and (5) “activities authorized under a waiver approved for any state after TANF’s enactment in 1996.” Of special note is the fourth category of activities: “state-defined programs or activities designed to remove work barriers.” It removes almost all limits imposed by the other elements of the provision, and would make countable almost any activity

⁹⁰Tommy G. Thompson, “Reforming Welfare in America: Bush plan encourages self-improvement,” *JSONline: Milwaukee Journal Sentinel*, May 4, 2002, available from: <http://www.jsonline.com/news/editorials/may02/40665.asp>, accessed May 7, 2002 (emphasis added).

that a state might impose.

Although S. XXX's three-month activities might appear to be narrower than H.R. 4's (which would allow participation in *any activity* that "addresses" TANF's general purposes), the Senate provision is actually more generous to the states. First, the fourth category of activities—"state-defined programs or activities designed to remove work barriers"—is almost as broad as H.R. 4's. A state could include almost all of the same activities under either category. For example, marriage counseling would clearly be permitted under H.R. 4. Under S. XXX, a state could argue that such counseling would address a work barrier by promoting stable marriages, which would lead to more stable child care arrangements, which in turn would remove a work barrier. Second, other provisions of S. XXX would allow states to count job search and vocational educational training as direct work activities, rather than as part of the three-month-activity provision (as it would under H.R. 4), thereby preserving room for other short-term activities. In fact, a state could even count additional job search activities so long as they renamed them and characterized them as "barrier removal activities" (to avoid triggering the six-week per year limitation on job search). For example, a state could require participation in a "work preparation" activity to address a work barrier, even if, as a practical matter, the activity was essentially the same as "job search and job readiness assistance."

Table A-3.1
Three-Month and Additional Three-Month Activities

— H.R. 4 and S. XXX —

Activity	Current TANF	H.R. 4 (3 months)	S. XXX (3 months)	S. XXX (Additional 3 months)
Substance abuse counseling or treatment	no	yes	yes	yes (if “certified” qualified rehabilitative activity “determined necessary” by “qualified professional”)
Rehabilitation treatment and services	no	yes	indirect (if barrier removal activity)	yes (if “certified” qualified rehabilitative activity “determined necessary” by “qualified professional”)
Work-related education or training directed at enabling the family member to work	no	yes	indirect (if barrier removal activity)	no
Job search or job readiness assistance	no	yes	indirect (if barrier removal activity; also counts as direct work activity)	no
Any other activity that addresses a TANF purpose	no	yes	indirect (if barrier removal or qualified rehabilitative activity)	indirect (if “certified” qualified rehabilitative activity “determined necessary” by “qualified professional”)
Postsecondary education	no	indirect (if addresses TANF purpose)	yes	no
Adult literacy programs or activities	no	indirect (if addresses TANF purpose)	yes	yes

State-defined programs or activities designed to remove barriers to work	no	indirect (if addresses TANF purpose)	yes	indirect (if “certified” qualified rehabilitative activity “determined necessary” by “qualified professional”)
Work activities authorized under a waiver before enactment of S. XXX	indirect (counts as core work activity with no time limit)	indirect (if addresses TANF purpose)	yes	indirect (if “certified” qualified rehabilitative activity “determined necessary” by “qualified professional”)
Program designed to increase proficiency in the English language	no	indirect (if addresses TANF purpose)	indirect (if barrier removal activity)	yes
Any other rehabilitative activity, including for a “certified” physical or mental disability or a substance abuse problem, if “determined necessary” by a “qualified medical, mental health, or social services professional (as defined by the State)”	no	indirect (if addresses TANF purpose)	indirect (if barrier removal activity)	yes

Note: “Indirect” means the activity is not specifically identified by the authorizing statute, but is one that could be counted under either bill pursuant to another provision. For example, under H.R. 4, as an activity that addresses a TANF purpose, or under S. XXX, as an activity that is designed to remove a barrier to work or provide a qualified rehabilitative activity.

Potential Impact

To assess the potential impact of both bills' two three-month-activity provisions on participation rates, we explore three related questions: (1) How many families would fall within the various three-month periods (every twenty-four months)? (2) How many of these families could states successfully place in countable activities? And, last, (3) How difficult and expensive would it be to create slots in such activities?

(1) How many families would fall within the various three-month periods (every twenty-four months)? We assume that the *first* three-month period would begin either (a) as soon as a family comes on welfare, or (b) in the month immediately following the first month of assistance, if the state uses the first-month exclusion, followed by a twenty-one-month period in which the family could not be counted in anything but a direct work activity. At the end of the first twenty-four-month period, the cycle would be repeated. Based on CBO estimates,⁹¹ the distribution of the caseload would be as follows: months one to three or months two to four (10 percent); months twenty-five to twenty-seven or months twenty-six to twenty-eight (3.5 percent); and months forty-nine to fifty-one or months fifty to fifty-two (6.5 percent).⁹² The sum of these percentages (20 percent) represents the maximum percentage of families that, in any given month, could participate under each bill's three-month-activity provision.⁹³

Our approach probably understates the number of families that could fall within these three-month periods. Some percentage of those returning to welfare, for example, could be

⁹¹Sheila Dacey, personal communication to Peter Germanis, May 21, 2003. See also Sheila Dacey and Donna Wong, "Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003," memorandum to interested parties, May 8, 2003.

⁹²These estimates are based on CBO tabulations of HHS data. The CBO tabulations, however, appear to understate the potential percentage of families in the relevant months, because the variable used to measure time on welfare does not fully capture the impact of families leaving welfare and then returning, perhaps more than once. This problem can be seen by comparing the percentage of the caseload in the first month of assistance (9 percent) to the average monthly estimate of those that have been on assistance two months (3.3 percent). (The CBO estimated that 10 percent of families were in their second through fourth months of assistance. For simplicity, we simply assumed that one third were in their second month of assistance.) The large difference in welfare receipt between the two months is because the first-month group includes both first-time and returning welfare recipients, whereas the second-month group is composed primarily of first-time recipients. (It would also include anyone who had previously received welfare for exactly one month.) In other words, in calculating the estimated number of families that had received welfare two to four months, the CBO estimate largely ignored those families that had received welfare during a prior spell. We have, unfortunately, no reliable way to estimate the size of this undercount. Hence, we use their estimate of the number of families in the relevant months of assistance. (Our estimator, however, allows users to enter their own estimate of the number of families in the relevant months of assistance.)

⁹³We do not include an estimate for families beyond the fifty- to fifty-two-month period, because TANF limits assistance to most families to sixty months. Nevertheless, because states can exempt up to 20 percent of their caseload from the time limit, there could be families that qualify for the three-month option that have received benefits for more than sixty months.

counted under the three-month-activity rule, as long as they had not been counted in the preceding twenty-four-month period. Indeed, when a state first implements this provision, all work-eligible adults would potentially be countable because none would have received assistance during a period in which the three-month-activity rule was in effect. Thus, a state would not be limited to working with the 20 percent of the caseload in one of the three-month periods, but could initially engage up to 100 percent of the caseload in state-specified activities. As a result, the impact of this provision on the participation rate during the initial years of either bill's implementation could be much larger than reflected in our estimates.

(2) How many of these families could states successfully place in countable activities?

We think states will find it relatively easy (and inexpensive) to develop activities countable in the *first* three-month period, even if only through independent job search (as discussed below), so we assume that they would place all 10 percent in a countable activity. (Our estimator allows this assumption to be altered.)

But for the 10 percent of their caseloads in the *subsequent three-month periods*, we think states will have more difficulty taking full advantage of this provision. To do so, states would have to estimate the maximum percentage of their caseloads that they could maintain in three-month activities on an ongoing basis, and then track them so that every eligible recipient is placed in an appropriate activity during the correct time period (even though some recipients may not need an activity at that time or at least not need an available activity). This would involve tracking not just the existing caseload, but also recipients who cycle on and off assistance (to see how many have been counted for three months in the preceding twenty-four-month period.) It would also require a careful balancing of available program slots with the needs of eligible families to ensure meaningful participation. This would require coordinating services, such as substance abuse treatment, with available openings—especially difficult when there is a high level of turnover in the caseload. (Of course, if states cannot assign every family to a three-month activity at precisely the right time, they might be able to assign those they miss during a subsequent period.)

Given the difficulty that states would likely have tracking families and determining their eligibility, we assume that, in the subsequent three-month periods, states will not be able to assign more than about half of those potentially countable under the provision (about 5 percent of the caseload). That means that the potential size of the group that could be placed in a three-month activity would be about 15 percent of the caseload.

Some of the recipients who would fall within these three-month periods would already be in a direct work activity. Because we counted them to determine the national base participation rate, our estimator subtracts them to determine the additional number of recipients

potentially countable under the three-month-activity provision.⁹⁴ Because about 30 percent of the adult caseload was in a direct work activity, this reduced the potential size of the group that could be in three-month activities from about 15 percent of the caseload to about 10.5 percent.

Our calculation of the national base participation rate also includes recipients already in a three-month activity. Hence, we also subtracted them from the number of recipients in those periods.

- **For H.R. 4's first three-month period**, we subtracted all adult recipients in job search (about 2 percent) and one half of the number of adult recipients remaining in an activity not considered a direct work activity (about 2 percent). For the *subsequent two three-month periods*, we subtracted the remaining half of adult recipients in an activity not considered a direct work activity (about 2 percent).
- **For S. XXX's first three-month period**, we subtracted one half of the number of adult recipients remaining in an activity not considered a direct work activity (about 1 percent). For the *subsequent two three-month periods*, we subtracted the remaining half (about 1 percent).

Thus, in the end, we estimate that the additional number of countable recipients in these three-month periods would be 4.5 percent under H.R. 4⁹⁵ and 8.5 percent under S. XXX.⁹⁶ (S.

⁹⁴In our estimator, 33 percent of TANF adults were considered countable participants (the base participation rate). Under H.R. 4, this consisted of 27 percent of TANF adults participating in a direct work activity and 6 percent participating in an activity not considered a direct work activity. For this step, we subtracted the 27 percent in a direct work activity in each of the three-month periods. Under S. XXX, this consisted of 31 percent of TANF adults participating in a direct work activity and 2 percent participating in an activity not considered a direct work activity. For this step, we subtracted the 31 percent in a direct work activity in each of the three-month periods. Unlike the participation rate calculations, these percentages do not include an adjustment for the proportional participation credit, because the objective of the calculation is not to determine countable participation, but the percentage of adults that should be excluded in determining the potential size of the three-month-activity provision.

⁹⁵Here is our complete calculation: For H.R. 4's three-month-activity provision, we estimate that states could count another 4.5 percent of their TANF adult caseloads in a three-month activity. As described above, we derive this estimate by starting with the percent of the adult caseload in these three-month periods (about 20 percent). We then assume that states could find and place all of those in the first three-month period, but only half of those in the subsequent two three-month periods (leaving 15 percent). To avoid double counting, we subtract all those in a direct work activity (4.5 percent), those in job search (2 percent), and one half of those in an activity not considered a direct work activity in the first three-month period (2 percent) and one half of those in the subsequent two three-month periods (2 percent). This leaves 4.5 percent of the adult caseload that could be counted in a three-month activity.

⁹⁶Here is our complete calculation: For S. XXX's three-month-activity provision, we estimate that states could count another 8.5 percent of their TANF adult caseloads in a three-month activity. As described above, we derive this estimate by starting with the percentage of the adult caseload in these three-month periods (about 20 percent). We then assume that states could find and place all of those in the first three-month period, but only half of those in the subsequent two three-month periods (leaving 15 percent). To avoid double counting, we subtract all those in a direct work activity (4.5 percent), and one half of those in an activity not considered a direct work activity

XXX's three-month-activity provision would generally have a larger potential impact than H.R. 4's because it would make countable as a direct work activity those participating in job search and vocational educational training, so that other activities can be counted as three-month activities. Thus, states would have more room under S. XXX's three-month-activity provision to count *additional* participation, including more job search and vocational education.)

These estimates describe the potential reach of each bill's three-month-activity provision. They are not a measure of the impact on the national participation rate, because the magnitude of the effect of the provision would also depend on the size of the various authorized exclusions (such as the first-month and child-under-age-one exclusions) and unauthorized adjustments (such as the transfer of families to separate state programs).

in the first three-month period (1 percent) and one half of those in the subsequent two three-month periods (1 percent). (The percentage in an activity not considered a direct work activity is smaller under S. XXX than under H.R. 4 because S. XXX counts more activities as direct work activities.) This leaves 8.5 percent of the adult caseload that could be counted in a three-month activity.

Table A-3.2

Potential Impact of Three-Month-Activity Provisions

— H.R. 4 and S. XXX —

Three-Month-Activity Provision	Percentage of caseload involved	Percentage of caseload actually placeable in an activity ^a	Subtract percentage of caseload already counted in direct work/3-month activity	Additional percentage of caseload available for 3-month activities
H.R. 4				
First three-month period	10%	10%	3%/ 4%	3%
Subsequent three-month periods	10%	5%	1.5%/2%	1.5%
S. XXX				
First three-month period	10%	10%	3%/1%	6%
Subsequent three-month periods	10%	5%	1.5%/1%	2.5%
S. XXX				
First “additional” three-month period	5%	5%	1.5%	3.5%
Subsequent “additional” three-month periods	10%	5%	1.5%	3.5%

Notes:

^a “Actually placeable” means that there is a reasonable prospect that states can find and place recipients in an activity during the applicable three-month period.

And, last, (3) How difficult or expensive would it be to create slots in such activities?

Under this provision, states could count participation in substance abuse counseling or treatment programs, rehabilitation treatment and services, work-related education or training directed at enabling the family member to work, postsecondary education, adult literacy programs or activities, work activities authorized under a waiver before enactment of S. XXX (under S. XXX), a program designed to increase proficiency in the English language, other rehabilitative services, as well as any other activities that either address TANF’s general purposes (under H.R. 4) or are designed to remove barriers to work (under S. XXX). As described above, many states are already providing such activities that are not being counted either because they do not fit TANF’s definition of core activities or because the participation is not for enough hours. In either case, to some extent at least, states should be able to raise their levels of reported participation with some ease.

Actually expanding such programs, however, could be expensive and might not necessarily be needed by most of those on welfare. Thus, we think a state wanting to maximize

participation without spending more money will take advantage of H.R. 4 and S. XXX's three-month-activity rules to require job search at application. Under S. XXX, this three-month period of job search would start after counting job search as a direct work activity for six weeks. (Under S. XXX, job search and job readiness assistance would remain limited to six weeks per year, as under current TANF, but we assume that a state could relabel the activity as a barrier removal activity under S. XXX, without changing it substantively and continue to count it for an additional three months.) Thus, in addition to counting six weeks of job search at application as a direct work activity, we assume states would claim an additional three months under this provision, for a total of up to four-and-a-half months of job search.

S. XXX's Additional Three-Month Activities

As mentioned, S. XXX would also authorize a narrower range of activities for an *additional* three months in any twenty-four-month period. (To avoid confusion with the first "three-month-activity provision," we call this second period the "additional three-month-activity provision.") During the period, three "qualified rehabilitative services" could count as direct work activities: (1) "adult literacy programs or activities," (2) "a program designed to increase proficiency in the English language," and (3) any other "certified" rehabilitative activity, including for a physical or mental disability or a substance abuse problem, if "determined necessary" by a "qualified medical, mental health, or social services professional (as defined by the State)." The actual legislative language for the third activity is:

In the case of an adult recipient or minor child head of household who has been certified by a qualified medical, mental health, or social services professional (as defined by the State) as having a physical or mental disability, substance abuse problem, or other problem that requires a rehabilitative service, substance abuse treatment, or mental health treatment, the service or treatment determined necessary by the professional.⁹⁷

Although this language may seem restrictive, it is not: "Certified" is not a technical term, and it merely means that someone has attested to the fact, probably in writing; "social services professional" could mean anyone "defined by the state"; and having a "problem" requiring a "rehabilitative service" or "treatment" establishes no limitation on severity. Apparently, the only limitation, such as it is, applies to all three clauses: To be counted, recipients must combine the "qualified rehabilitative activity" with a direct work activity. This could include participation in job search and job readiness assistance and vocational educational training without regard to any of the limitations that would otherwise apply to participation in these activities. For example, a recipient determined to need adult literacy skills could participate for just one hour in adult literacy activities and combine that with twenty-three hours of

⁹⁷U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

independent job search in the *additional* three-month-activity period without regard to the six-week limit on job search as a direct work activity that would otherwise apply. Although HHS could regulate this provision to reduce the number of adult recipients who would qualify, this would undoubtedly be difficult to do, given the large percentage of recipients that have limited literacy skills, do not speak English, or suffer from a physical or mental impairment or some other problem that requires rehabilitative services.

How many additional recipients could be placed in S. XXX's additional three-month-activity provision? We do not have data on the percentage of the caseload in these additional three-month periods, so we assume that about 5 percent of the caseload would be in each of the additional three-month-activity periods (for a total of 15 percent of the adult caseload).⁹⁸ As with the other three-month-activity provision, we assume that states could find and place all of those in the first additional three-month-activity period, but only half of those in the subsequent two additional three-month-activity periods (leaving about 10 percent of the caseload).

As before, to avoid double counting, we subtract all those already counted as being in a direct work activity. Using the participation rate for the entire caseload in a direct work activity, this would be about 3 percent. (Unlike the adjustment for the three-month-activity provision, however, we do not subtract anyone in an activity not considered a direct work activity, because we do not count anyone in the base participation rate as being in an additional three-month activity.) This leaves about 7 percent of the caseload that could be counted as being in an additional three-month activity.

Once again, we note that estimates such as these describe the potential reach of S. XXX's additional three-month-activity provisions. They are not a measure of its actual impact on the national participation rate, because the magnitude of the effect would also depend on the size of the various authorized exclusions (such as the first-month and child-under-age-one exclusions) and unauthorized adjustments (such as the transfer of families to separate state programs).

Many states already provide services that could fall under this provision and thus could be counted during this additional three-month period at no additional cost. All states, however, can meet S. XXX's participation requirements without this provision, especially because the activities largely fall under the broader three-month activity provision. Hence, for our national composite caseload, we did not include an estimate of this provision's impact. (For these reasons, our estimator also does not include this provision.)

* * *

⁹⁸This estimate assumes that the caseload is evenly distributed throughout the sixty-month period that assistance is available (due to the five-year time limit). Each three-month period represents 5 percent of the total.

A word about timing. To maximize the impact of these three-month-activity provisions, it would be important not to use them until they are needed to boost the state's participation rate (for most states probably beginning in 2006, because of the continued impact of the caseload reduction credit under H.R. 4 and the employment credit under S. XXX)—and only to the extent needed to satisfy the state's required participation rate. Thus, for example, under H.R. 4, if a state's final required participation rate in 2004 would be 0 percent (due to the caseload reduction credit), it would be ill advised to count a family's participation in job search under the three-month-activity rule because it would then be unable to count that same family's future participation in any qualified activity for another twenty-one months. (In fact, even if all recipients were periodically put through a three-month program, their participation should not be claimed until needed—so that their later participation in another three-month program could be counted.)

A-4. “Other” Activities

Under current TANF, adult recipients must participate for at least twenty hours in core activities. The remaining hours of required participation (for single parents with a child age six or older and two-parent families) can be satisfied by participating in any of TANF’s core activities or in one of the following three activities: job skills training directly related to employment, education directly related to employment (in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency) and satisfactory school attendance at secondary school or in a course of study leading to a certificate of general equivalence (in the case of a recipient who has not completed secondary school or received such a certificate).

In contrast, both H.R. 4 and S. XXX would allow participation in other activities to count, for a limited number of months, as direct work activities that satisfy the twenty-four-hour direct work activity requirement. They both would also allow participation in such activities to count (indefinitely) toward the additional hours required after the twenty-four-hour requirement has been met. The breadth of activities authorized obviates the requirement of participation beyond twenty-four hours.

TANF’s Other Activities

Under current TANF, adult recipients must participate for at least twenty hours in core activities. The remaining hours of required participation (for single parents with a child age six or older and two-parent families) can be satisfied by participating in any of TANF’s core activities or in one of the following three activities:

- “*Job skills training directly related to employment,*” that is, technical training focused on a particular job skill needed to meet the labor market needs of a community or specific employer, but generally not leading to a certificate or degree.
- “*Education directly related to employment,*” that is, employment-related education for recipients who have not received a high school diploma or a certificate of high school equivalency.
- “*Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence,*” for recipients who have not received a high school diploma or a certificate of high school equivalency.

H.R. 4's "Other" Activities

Under H.R. 4, the remaining sixteen hours of participation could be satisfied by participating in any "direct work" activities or in *any other* state-selected activity—as long as it addresses TANF's general purposes. Again, H.R. 4 does not define the activities, but authorizes HHS to issue regulations defining them.⁹⁹ The latter category is also quite broad, as evidenced by the comments of HHS Secretary Tommy Thompson: "States will have the flexibility to decide which activities should make up the remaining 16 hours. These could include a variety of services the States determine are needed by the family."¹⁰⁰

The major Senate bill in the 2002 legislative session would have required that these "other activities" be "structured and supervised."¹⁰¹ But it, too, revealed how broadly encompassing these activities could be: "Such structured and supervised activities may include (but are not limited to) job search, job preparation, education, training, drug treatment, parenting education, marriage and relationship skills training, or counseling on domestic violence."¹⁰²

Thus, unless HHS (or a subsequent version of H.R. 4) carefully defines these terms in its regulations, states seem to have almost unfettered discretion in what they include in meeting the sixteen-hour requirement. As for the sixteen hours of participation in "other activities," the possibilities seem almost boundless, as long as they could be seen as addressing TANF's goals of strengthening families, encouraging work, and promoting child well-being. In the words of Wade Horn, HHS assistant secretary for Children and Families: "Moving folks into employment is not the only goal of [the federal welfare program], as important as that is. In the

⁹⁹U.S. Congress, House of Representatives, *Personal Responsibility, Work, and Family Promotion Act of 2003*, H.R. 4, 108th Cong., 1st sess. (February 4, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h4rs.txt.pdf, accessed December 30, 2003.

¹⁰⁰Tommy G. Thompson, "Statement," before House Committee on Ways and Means, *President's Plan to Build on the Success of Welfare Reform Featuring HHS Secretary Thompson: Hearing before the Committee on Ways and Means*, 107th Cong., 2nd sess., March 12, 2002, available from: <http://waysandmeans.house.gov/legacy/fullcomm/107cong/3-12-02/107-53final.htm>, accessed January 22, 2004.

¹⁰¹U.S. Congress, Senate, *Compassion and Personal Responsibility Act of 2003*, S. 5, 108th Cong., 1st sess. (February 14, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s5is.txt.pdf, accessed January 27, 2004.

¹⁰²U.S. Congress, Senate, *Compassion and Personal Responsibility Act of 2003*, S. 5, 108th Cong., 1st sess. (February 14, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s5is.txt.pdf, accessed January 27, 2004.

end, it's about whether the kids are better off."¹⁰³

This opens the door to an apparently long list of activities not closely related to either work or education. Besides the amorphous community service (in the sixteen-hour category, it need not be "supervised"), a state could count time recipients spend volunteering in organized activities with their own children, such as at a Head Start center, school, Girl or Boy Scouts, or other recreational activities. A state could also count time recipients spend in marriage strengthening activities, parenting classes, or other activities designed to improve child well-being. Linda Chavez, a syndicated columnist, has written: "This new provision encourages welfare parents to spend important and rewarding time with their children."¹⁰⁴ It has been suggested that a state could even count time parents spend helping their children with homework or taking them to various activities, because such participation could be viewed as strengthening families and promoting child well-being. The only other limitation, according to Horn, is that such activities would have to "meet a reasonable-person test."¹⁰⁵

This broad approach to defining "other activities," however, comes at a price. As Gene Falk and Shannon Harper of the Congressional Research Service conclude: "If such parenting activities could be called 'work' for purposes of meeting the H.R. 4 requirements, it could be argued that the work participation requirement is really only a 24-hour per week requirement, not a 40-hour per week requirement."¹⁰⁶ Indeed, in its basic cost estimate, the CBO assumed that "anyone who currently meets a 24-hour work requirement could meet a 40-hour requirement at no additional cost."¹⁰⁷ We see no substantial reason to disagree.

¹⁰³U.S. Congress, House of Representatives, Committee on Education and the Workforce, *Bill Summary: The Personal Responsibility, Work, and Family Promotion Act (H.R. 4): Building on the Welfare Reform's Unprecedented Success for America*, 108th Congress, 1st sess., February 4, 2003, available from: <http://edworkforce.house.gov/issues/108th/workforce/welfare/billsummary020403.htm>, accessed March 7, 2003.

¹⁰⁴Linda Chavez, "Beware 'chicken littles' of welfare reform," May 7, 2002, available from: <http://www.townhall.com/columnists/lindachavez/lc20020507.shtml>, accessed March 26, 2003.

¹⁰⁵Jonathan Peterson, "Welfare Plan Would Count Family Time," *Los Angeles Times*, March 28, 2002, http://www.latimes.com/news/nationworld/la-032802welfare_story, accessed March 28, 2002.

¹⁰⁶Gene Falk and Shannon Harper, *TANF Work Participation Requirement Proposed in Welfare Reauthorization Legislation* (Washington, DC: Congressional Research Service, May 7, 2003), p. 26.

¹⁰⁷Sheila Dacey and Donna Wong, "Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003," memorandum to interested parties, May 8, 2003, p. 3. The CBO does not expect states to try to meet the participation requirement, but rather, "expects states would instead partially or fully avoid these costs by moving families to separate state programs or averting the requirements by some other means." Nevertheless, it prepared cost estimates for both bills' participation requirements to determine what the potential cost would be "if states chose to meet the new requirements by funding more activities for recipients such as work experience, training, and job search programs." Thus, the assumptions it lays out do not represent what it considers to be the most likely scenario of what will happen. We expect states to make a more serious effort to meet the participation requirements than does the CBO, but point out that our approach is consistent with the CBO's assumption about how a state would implement the bills'

Hence, for the purposes of our calculation, we ignore H.R. 4's requirement for participants to engage in up to an additional sixteen hours per week in "other activities," because its definition of what can be considered is so broad that it does not create a serious added burden for either states or families. (Some states, however, may take the forty-hour requirement more seriously and may require participation in traditional work-related activities for up to forty hours. Our estimator allows users to enter their own estimate of the number of participants who would satisfy various hourly requirements.)

S. XXX's "Other" Activities

Unlike H.R. 4, which allows the additional hours of participation to be in virtually any activity (as long as it addresses TANF's general purposes), the additional hours of countable participation required by S. XXX would be limited to participation in one of current TANF's twelve activities¹⁰⁸ or one of the following other activities:

- "Postsecondary education."
- "Adult literacy programs or activities."
- "Substance abuse counseling or treatment."
- "State-defined programs or activities designed to remove work barriers."
- "Activities authorized under a waiver approved for any state after TANF's enactment in 1996."

As discussed above, the fourth category—"state-defined programs or activities designed to remove work barriers"—removes almost all limits imposed by the other elements of the provision and would make countable almost any activity that a state might impose (see tables A-2.1 and A-3.1).

provisions in the event that it would actually try to meet the requirements. See also, U.S. Congress, Congressional Budget Office, "Budget Effects," in U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

¹⁰⁸Current TANF's twelve activities include S. XXX's nine direct work activities: unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, on-the-job training, job search and job readiness assistance, community service, vocational educational training (subject to a twelve-month limit), and provision of child care to a community service participant. They also include three additional activities: job skills training directly related to employment, education directly related to employment, and satisfactory attendance at school. (The last two activities are limited to those who do not have a high school diploma or equivalent.) All twelve TANF activities could be used to satisfy any additional hourly requirement under S. XXX.

Although the range of allowable activities is somewhat narrower than under H.R. 4 for these hours, we ignore S. XXX's requirement for participants to engage in additional hours (as we did in our calculations under H.R. 4), because the definition of countable activities is still broad enough so that it could be easily satisfied.¹⁰⁹ (Some states, however, may take the requirement more seriously and may require single parents without a child under age six to participate in traditional work-related activities for up to thirty-four hours. Our estimator allows users to enter their own estimate of the number of participants who would satisfy various hourly requirements, as it does for H.R. 4.)

¹⁰⁹Basically, we assume that just about all the things that states currently require of recipients that do not qualify as one of the other countable activities specified by S. XXX would be countable under a broad definition of community service.

A-5. Base Participation Rates

The first step in the analysis is to estimate the size of the gap between current practices and the required participation rates under H.R. 4 and S. XXX. We start by calculating what we call the “base” participation rate; that is, the rate generated by current participation derived by applying H.R. 4’s and S. XXX’s proposed participation rules (but without applying any of their authorized adjustments or exclusions.) As this section describes, we calculate base participation rates for H.R. 4 of 33 percent and for S. XXX of 36 percent. (The only substantive difference in the calculation at this point and the main reason the S. XXX participation rate is 3 percentage points higher is the proportional participation credit, because we assume that all recipients who satisfy the hourly requirements also meet the requirements for extra credit to count as a “1.08 family.”)

“Work-Eligible Individual”

Subject to the adjustments and exclusions described in the next section, H.R. 4 defines every “adult whose needs are included in determining the amount of cash assistance” to be a “work-eligible individual”; that is, a person subject to federal participation requirements. Families with a “work-eligible individual” are “counted families” for the calculation of participation rates. (The practical significance of this is that families with two adults are treated as a single unit for participation rate purposes.) S. XXX also applies participation requirements to families receiving assistance, but does not limit them to those receiving “cash” assistance.

In determining the number of families counted in the participation rate, both H.R. 4 and S. XXX would allow states to subtract families that do not have an adult receiving assistance (generally called “child-only” cases). This rule, also in current law, is enormously important. In 2001, it served to *exclude 37 percent of the entire national TANF caseload from work requirements*.¹¹⁰ Some of these child-only cases involve children placed with relatives because their parents cannot care for them (“kinship care”). Some involve immigrant families in which the adult immigrant is not eligible for benefits but their native-born children are. And some involve situations in which the parent is receiving Supplemental Security Income (SSI) and is not included as part of the TANF grant (but the child is).

In some states, child-only cases also include families in which the adult has been

¹¹⁰U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families Program (TANF): Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-202, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/index.htm>, accessed February 25, 2003.

sanctioned for some reason and is therefore off the grant. In 2001, of the nation's 776,746 child-only cases, 37,804 or 9.7 percent involved parents who were not receiving benefits themselves due to a sanction.¹¹¹ About 23,441 or 62 percent of these cases involved a sanction for noncompliance with a work requirement.¹¹² (In other states, partial sanctions reduce a family's TANF benefit by a specific dollar amount or percentage, but do not create a child-only case because they do not formally remove the adult from the assistance unit.) Hence, the number of child-only cases resulting from partial sanctions would probably decrease if states implemented H.R. 4's mandate of full-family sanctions because the parents would either begin to comply with the participation requirements once they are subject to a larger penalty or the entire family would be removed from the rolls by the full-family sanction (or would be transferred to a separate state program).

At the extreme, a state could escape nearly all of TANF's requirements by simply transforming its entire caseload into child-only cases—because participation requirements are only applied to families with an adult receiving assistance. In other words, it could simply pay benefits to only the children in a family. This need not involve a reduction in assistance, because the per-child benefit could be adjusted upward to compensate for the parent's removal from the welfare grant. This is not as implausible as it sounds. After all, welfare started as the Aid to Dependent *Children* program. Already, several states (including California and Rhode Island) provide child-only payments for families that reach their five-year time limit, with the benefit amount reduced by the parent's share of the grant.¹¹³ Although it appears that HHS does not have the legal authority to disallow such arrangements, such a blatant attempt to escape the proposed participation requirements would probably be politically infeasible and would certainly arouse the ire of enough in Washington for HHS or Congress to respond.

¹¹¹HHS reported slightly different numbers for child-only cases on two separate tables. We use the number of child-only cases reported in the table used to calculate the "all-family" work participation rate. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-106, p. X-211, and p. X-215, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹¹²We estimate the number of child-only cases subject to a work sanction by multiplying the total number of child-only cases subject to a sanction (75,345 cases) by the percent of all sanctions that are due to noncompliance with a work requirement (62 percent). U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. III-106 and X-215, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹¹³Center for Law and Social Policy and Center on Budget and Policy Priorities, *Separate State Programs and State-Only TANF Funds* (Washington, DC: Center for Law and Social Policy/Center on Budget and Policy Priorities, June 2000), p. 1, available from: http://www.spdp.org/tanf/ssp_and_stateonly.pdf, accessed March 15, 2003; and Theresa J. Feeley and Deborah L. Stein, *Stretching the Limits: How States are Using Welfare Flexibility to Support Children* (Washington, DC: National Association of Child Advocates, January 1999), available from: <http://www.childadvocacy.org/stretch.htm>, accessed March 24, 2003.

States would not need to transform all their TANF families into child-only cases to avoid participation requirements. They could select defensible categories of families that plausibly deserve such special treatment, including families in which the parents have been removed from assistance for failure to comply with participation or other requirements.¹¹⁴

Although even more unlikely, a state also could avoid H.R. 4's participation requirements by substituting noncash benefits for cash assistance. (The participation requirements apply only to the latter.)¹¹⁵ For example, it could make rental payments to landlords on behalf of welfare families in lieu of providing the families a cash payment. This would enable it to use federal TANF funds to pay for the assistance, although the administrative burden of operating such a system would probably discourage most states from seriously considering it. Another drawback is that noncash systems can result in a partial reduction in benefits for recipients, because it is difficult to voucherize all of a family's needs.

For purposes of our calculations, we assume states will subtract child-only cases from their total caseload,¹¹⁶ leaving only the TANF cases with adults who are subject to participation requirements (before applying any of H.R. 4's or S. XXX's authorized adjustments or exclusions); that is, "work-eligible individuals."

Estimating Current "Participation"

To begin our calculations, we estimate the "base participation rate" for both bills—from which all calculations are derived. Basically, the base participation rate is the current participation rate applying either H.R. 4's or S. XXX's rules based on participation under TANF (before any policy or program changes, such as authorized adjustments and exclusions). For our national estimates, we use data from 2001 because it is the latest year with sufficiently detailed national data. (Individual states may have data for 2002 or 2003, and our estimator allows users to substitute more recent data, if available.)

We start with the total number of families receiving assistance¹¹⁷ and then subtract child-

¹¹⁴See Appendix A-7.

¹¹⁵Current law applies participation requirements to those receiving "assistance," whether cash or noncash. Some observers believe that limiting participation requirements to families receiving "cash" assistance was an oversight that would likely be broadened to apply to families receiving any assistance, cash or otherwise, should a compromise bill emerge.

¹¹⁶For H.R. 4, this would not include child-only cases resulting from a work-related sanction because they would be subject to the bill's full-family-sanction requirement.

¹¹⁷Because H.R. 4 and S. XXX drop the 90 percent participation requirement for two-parent families, most states that transferred their two-parent families to separate state programs (to escape the participation requirement for them) would probably transfer such cases back to TANF because they generally have a higher participation rate than single-parent families. (In 2001, two-parent families in a separate state program had a participation rate of 41 percent

only cases (unless they resulted from a work-related sanction),¹¹⁸ leaving the number of families with a “work-eligible individual” potentially subject to participation requirements. We then estimate the number of TANF recipients in 2001 participating in program activities that would be countable under H.R. 4. This estimate is based on six assumptions.

First, we assume that all recipients who satisfied TANF’s minimum hourly participation requirements in 2001 would meet both bills’ requirements, because the current TANF hourly requirement is, on average, about the same as the hourly requirements in H.R. 4 and S. XXX. [Others, such as the Center for Law and Social Policy (CLASP),¹¹⁹ have made roughly similar assumptions.] Current TANF requires a mother with a child under age six to participate twenty hours per week and a mother without a child under age six to participate thirty hours per week. Because about half of TANF families with an adult have a child under age six and half do not, the average requirement is about twenty-five hours per week.

- ***Under H.R. 4***, a recipient would have to participate for a minimum of twenty-four hours per week (regardless of the age of any children) in a direct work activity to be considered in the participation rate calculation. As explained above, however, the twenty-four-hour per week requirement may be just a twenty-two-hour requirement in practice. Thus, the TANF requirement is arguably a higher standard and could result in our approach underestimating the number of countable participants.
- ***Under S. XXX***, a single-parent recipient would have to participate for a minimum of twenty-four hours per week (regardless of the age of any children) in a direct work activity to count as a full participant. Although S. XXX would impose a higher, thirty-nine-hour direct work activity requirement on two-parent families, it would also give partial credit for single-parent families participating in direct work activities for twenty to twenty-three hours per week. Because the number of recipients in either of these two

compared to current TANF’s participation rate of 34 percent.) [See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families Program (TANF): Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-126, available from:

<http://www.acf.dhhs.gov/programs/ofa/annualreport5/index.htm>, accessed February 25, 2003.]

We have not included these cases in our estimates, however, because the number of families involved is relatively small and we do not have detailed data on which activities they participated in.

¹¹⁸We exclude from the number of child-only cases that will be subtracted from the total those that were created as a result of a participation-related sanction because parents in such cases remain subject to participation requirements.

¹¹⁹See Mark Greenberg, Elise Richer, Jennifer Mezey, Steve Savner, and Rachel Schumacher, *At What Price? A Cost Analysis of the Administration’s Temporary Assistance for Needy Families (TANF) Work Participation Proposal* (Washington, DC: Center for Law and Social Policy, April 15, 2002), available from: http://www.clasp.org/DMS/Documents/1023208530.14/At_What_Price_anaylsis.pdf, accessed September 8, 2003. There are, however, other differences between our estimator and the CLASP approach.

latter groups is small, we assume the two requirements offset each other, so we do not model them.

Second, we also count those who participated in activities that would not qualify as a direct work activity under either bill (including additional waiver activities), because states could count them (as well as those in a direct work activity) under either bill's three-month-activity rule (discussed below) or a broadly defined community service program.¹²⁰ [Others, such as the Congressional Budget Office (CBO),¹²¹ have made similar assumptions.] The CBO, however, assumed that states would shift recipients in an activity that is not considered a direct work activity (such as job search, education, and some training) into one that is.¹²² This approach is premised on the assumption that all program activities involve roughly the same cost, so there is no added cost from shifting a participant from an activity not considered a direct work activity to one that is. States, however, may be reluctant to switch participants out of well-established activities that, in their judgment, are an important part of the welfare-to-work equation. Hence, rather than assume such a shift, we think that states would count these participants under either bills' three-month option or relabel the activities involved. Unless HHS issues regulations prohibiting the practice, a state could probably count almost any activity under a broad definition of community service and could do so indefinitely. Indeed, our approach may understate the number of countable participants, because it is based on data reported to HHS that do not include participation in activities that are not countable under current TANF but might be counted under H.R. 4's three-month-activity rule.

Although S. XXX counts more activities as direct work activities than does H.R. 4, because we count all those who satisfy TANF's minimum hourly requirements (including those in other than direct work activities who we count under the three-month rule) means that the total number of *actual recipients* who are considered countable participants is the same under both bills. (As discussed below, S. XXX's proportional participation credit would raise the number counted toward participation requirements by 8 percent, resulting in a higher base participation rate than under H.R. 4.)

Third, we assume that states will count as participating those recipients who care for a

¹²⁰This assumption would overstate the participation rate to the extent that some participants participated longer than three months. Other related aspects of the calculation, however, understate the participation rate. For example, many states currently require participation in activities that are not counted toward TANF, but could be counted under the three-month-activity rule. These are excluded from our calculation, because we do not have the data on such participation.

¹²¹Sheila Dacey and Donna Wong, "Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003," memorandum to interested parties, May 8, 2003.

¹²²As explained in the main text, although the CBO expects states to "avert" both bills' participation requirements, it also presents a range of cost estimates and assumptions about how states would implement the requirements in the event that they chose to meet them.

disabled child or other dependent under a broadly defined community service program. Although H.R. 4 does not explicitly authorize this as a countable activity, as described above, several states already count such care as “community service” under current TANF and could continue to do so under H.R. 4. S. XXX explicitly deems such care as satisfying participation requirements.¹²³ Thus, based on the CBO and Urban Institute estimates summarized above, we conservatively estimate that about 5 percent of the national TANF caseload with an adult would be counted as satisfying the participation requirements through this type of community service. (For H.R. 4, our estimator treats this as a separate community service entry to distinguish it from other forms of community service and so a state can enter its own estimate. For S. XXX, the estimator treats it as a separate direct work activity.)

Fourth, we adjust the number of recipients in individual program activities to obtain an unduplicated count of the number of recipients satisfying participation requirements for each activity, which is not available from published HHS data. Because TANF adults can participate in more than one activity, the sum of those in each activity (in published HHS reports) exceeds the total number of recipients counted toward participation requirements. To derive an estimate of program participation for each individual work activity, we therefore proportionately reduced the number of recipients in all but one activity so that the total would sum to 100 percent. The only exception we made was for those in unsubsidized employment because relatively few of them seem to participate in other countable activities. (This adjustment also allows us to estimate the number of recipients in the base participation rate counted under the three-month-activity rule by summing those participating in all activities that are not considered direct work activities.)

Fifth, we ignore both bills’ requirement that recipients engage in additional hours beyond the base twenty-four hours in “other activities.”¹²⁴ (Others, such as the CBO, have made similar assumptions.)¹²⁵ In an analysis of H.R. 4 that would also apply to S. XXX, a CBO report states: “Because most states would otherwise find these requirements difficult to meet, we assume that states would allow a broad range of activities, including unsupervised and self-

¹²³Under H.R. 4, “providing care for a disabled child or dependent” is not a specified activity but would be considered a “community service.”

¹²⁴We treat both bills as establishing essentially the equivalent requirements for additional hours of participation, even though there are differences between the bills in the number of hours required because the range of activities that states could allow is so broad that the requirements in each bill could easily be satisfied. Although H.R. 4 requires sixteen additional hours from all families, S. XXX’s requirement varies by the age of the family’s youngest child and whether the family is a single-parent or two-parent home. Under S. XXX, a single-parent with a child under age six would have no added requirement, whereas a mother with no child under age six would have an additional ten-hour requirement. Thus, S. XXX would establish a lower hourly standard than would H.R. 4, but only for a putatively narrower range of countable activities.

¹²⁵As explained in the main text, although the CBO expects states to “avert” both bills’ participation requirements, it also presents a range of cost estimates and assumptions about how states would implement the requirements in the event that they chose to meet them.

reported activities, to count toward the final 16 hours and the three-month period. For this reason, we assumed that anyone who currently meets a 24-hour requirement or participates in a state-reported activity for at least 1 hour during the three-month period could meet a 40-hour requirement at no additional cost.”¹²⁶

Sixth, we assume that all recipients who satisfy S. XXX’s direct work activity requirement would also satisfy the hourly requirement for extra credit, because the extra hours of participation can be in a broad range of activities. Thus, we multiply the number of recipients satisfying the bill’s participation requirements by 1.08 to reflect the maximum amount of extra credit. (Our estimator allows users to alter the size of the proportional credit.)

Last, for those in a direct work activity, we also ignore the FLSA problem of some states not being able to place recipients in work activities for sufficient hours (described above). We assume that states will either adopt both food stamp program options to allow them to count the value of food stamps in determining the required hours of participation, or assign recipients to a community service activity that does not constitute employment and is therefore not subject to the FLSA requirement.

Using this combination of modestly generous assumptions concerning the ability of states to count participation in existing TANF activities as satisfying H.R. 4’s new requirements, we calculate that applying H.R. 4’s rules (but none of its authorized adjustments or exclusions) would result in a base national participation rate for 2001 of about 33 percent.

S. XXX has a slightly higher estimated base participation rate (36 percent) than that under current TANF (34 percent) and H.R. 4 (33 percent) because, although the same factors go into the calculation, S. XXX’s proportional participation credit raises the composite national caseload’s participation rate under it by 8 percent.

The H.R. 4 and S. XXX base participation rates are about the same as current TANF’s 34 percent participation rate. They understate participation relative to TANF, however, because they do not include various adjustments allowed under TANF, such as “disregarding” families subject to a partial sanction for up to three months, single parents with a child under age one, and, at state option, families in a tribal assistance program.¹²⁷ (As described below, we later

¹²⁶Sheila Dacey and Donna Wong, “Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003,” memorandum to interested parties, May 8, 2003.

¹²⁷U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-106, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. See also Mark Greenberg and Hedieh Rahmanou, *TANF Participation in 2001* (Washington, DC: Center for Law and Social Policy, March 18, 2003), available from:

estimate the effect of these or similar provisions as allowed under H.R. 4 and S. XXX.) On the other hand, our calculation results in a base participation rate higher than TANF's because they include an added 5 percentage points of participation to reflect the estimated number of adult recipients providing care for a disabled child or other disabled dependent.

Our estimates probably understate the base participation rate because they do not include all recipients who could be counted or all current activities that would be countable under either bill. For example, the estimates do not include two-parent families that were transferred to separate state programs to avoid TANF's higher two-parent participation requirement, but who would probably be shifted back to TANF under H.R. 4 or S. XXX (because they generally have a higher participation rate than single-parent families). They also do not include families participating in countable activities who did not have enough hours to be counted toward the participation requirements (about 17 percent of the adult caseload), but who represent a potential group for easy expansion: Many of these recipients might need only a few more hours of activity per week to become countable participants. Finally, our estimates do not include current activities that are not reported to HHS because they are either not countable under TANF or because the state did not bother to report them because compliance with participation requirements had already been established. (Otherwise, we might have counted such activities as three-month activities.)

A-6. Participation Rate Credits

The current version of TANF has a caseload reduction credit that reduces a state's required participation rate by the percentage the caseload has fallen below the 1995 level. H.R. 4 would recalibrate the original credit (by progressively updating its base year), and it would also add a supplementary "superachiever credit" for states that, between 1995 and 2001, had exceptionally large caseload declines. S. XXX contains neither of these credits and, instead, creates an "employment credit" that would reduce a state's required participation rate based on the percentage of TANF families that leave welfare for work.

Because H.R. 4's caseload reduction credit is recalibrated, it would interact with newly created separate state programs to reduce sharply required participation rates (by about 13 percentage points for the composite national caseload in 2008). And, because S. XXX's employment credit effectively doubles the impact of recipients leaving welfare for work, it provides what most observers believe is a 20 percentage point reduction in required participation rates in 2008 (and a larger reduction in earlier years).¹²⁸ Hence, they both are major reasons why the putative increase in participation requirements is not nearly as great as some think.

H.R. 4's Caseload Reduction Credit

What should happen to participation requirements when a state successfully moves a substantial number of recipients off welfare? On the theory that it would be unfair to ignore this achievement, TANF's required participation rates are reduced by the "caseload reduction credit." (In addition, as caseloads fall, maintaining high participation levels presumably becomes more difficult as those left on assistance have more barriers to work. On the other hand, because far fewer families would be involved, the administrative burden and costs could be lower.) The current caseload reduction credit reduces a state's required participation rate by one percentage point for each percentage point that the state's welfare caseload falls below the 1995 level. (Caseload reductions due to eligibility changes, such as the adoption of full-family sanctions or time limits, are not counted in measuring the caseload decline.)¹²⁹ Hence, the

¹²⁸As explained above, we add the percentage point impact of the caseload reduction credit under H.R. 4 and the employment credit under S. XXX to the participation rates to make it easier to track their impact compared to both bills' 70 percent required participation rate.

¹²⁹Some eligibility changes, such as expansions in earnings disregards, actually increase caseloads. States are required to identify each eligibility change, estimate its effect on the caseload (whether it decreases or increases the caseload), and then adjust the caseload by the net effect of all the changes. Here is an example of the calculation:

caseload reduction credit gives states an incentive to adopt policies that could discourage families from coming on assistance, encourage them to leave, or otherwise remove them from the rolls.

In most states, the large drop in welfare caseloads triggered caseload reduction credits that reduced effective participation rates to zero or near zero. In 2001, for example, twenty-eight states faced a final required participation rate of 0 percent, thirteen states had a required rate of between 0.1 percent and 10 percent, and nine states and the District of Columbia had a rate exceeding 10 percent.¹³⁰ (Indeed, only 3 percent of all TANF families with an adult were under an actual requirement to participate in 2001.)¹³¹ All states met these reduced standards, largely through the number of recipients combining work and welfare. And, because the base year does not change, the current credit in effect gives states a permanent credit for earlier caseload declines.

Recalibration. H.R. 4 attempts to remedy this situation. (S. XXX, unlike H.R. 4, does not continue the caseload reduction credit.)

H.R. 4 would maintain the basic structure of the caseload reduction credit but would “recalibrate” it by progressively updating the base year for the credit so that states do not continue to receive credit for declines that occurred many years before. For 2004, the base year would be 1996; for 2005, it would be 1998; for 2006, it would be 2001; and for 2007 and succeeding years, it would be four fiscal years earlier. Because caseloads in these new base years were considerably lower than the current base year (1995), the proposed recalibration would substantially reduce the value of the caseload reduction credit in future years.

This recalibration should make the size of the credit more responsive to more recent caseload trends—but it opens the door to another possibility.

Under current law, states cannot claim a caseload reduction credit based on a caseload

Suppose a state’s caseload declined by 20,000, from 50,000 in 1995 to 30,000 in 2001. If the state estimates that 5,000 cases were closed due to a full-family sanction and 2,000 cases were added due to an expanded earned income disregard, then the net caseload reduction would be 17,000 cases. This 34 percent reduction would reduce the state’s required participation rate by 34 percentage points. See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, “Guidance on Submitting Caseload Reduction Credit Information, the TANF Caseload Reduction Report (Form ACF-202) and Instructions,” November 5, 1999, available from: <http://www.acf.dhhs.gov/programs/ofa/pa99-2.htm>, accessed February 8, 2002.

¹³⁰U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-102, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹³¹Gene Falk and Shannon Harper, *TANF Work Participation Requirements Proposed in Welfare Reauthorization Legislation* (Washington, DC: Congressional Research Service, May 7, 2003), p. 9.

decline caused by an eligibility change adopted since 1995. This would change under H.R. 4 because of the recalibration process—which not only resets the base caseload figure but also resets the base period from which eligibility changes that reduce caseloads can be used to trigger a caseload reduction credit. Thus, for example, a state could adopt a shorter time limit or shift specific types of cases to a separate state program (such as New York’s policy of shifting families that reach the five-year time limit to a separate state program)—and count the resultant caseload reduction toward the credit.¹³²

Continued Potency. As we saw, H.R. 4 would progressively raise the required participation rate from 50 percent in 2004 to 70 percent in 2008. These statutory rates, however, are still subject to the caseload reduction credit that reduces them sharply (at least through 2005 if caseloads do not rise much). Furthermore, additional caseload declines, including artificial ones created by the transfer of cases to separate state programs, could trigger an increase in the credit.

As we described, beginning in 2004, H.R. 4 would begin a series of recalibrations of the caseload reduction credit so that states no longer benefit from long-past caseload declines. However, at least through 2005, the credit still prevents H.R. 4’s participation requirements from beginning to bite. To illustrate, we perform two sets of calculations: One assumes that the national caseload will remain relatively flat through the life of H.R. 4, and the other asks how much caseloads would have to rise before states would have to raise participation levels.

For the purposes of our analysis, we use our estimated base H.R. 4 participation rate of 33 percent (derived by applying H.R. 4’s proposed participation rules to data from 2001 but without applying any of its authorized adjustments or exclusions) as the base for both sets of calculations. These are very rough estimates: For example, we make the simplifying assumption that the 33 percent remains steady through 2008, then the caseload reduction credit prevents participation requirements from beginning to bite until 2006. In addition, some states will face greater requirements than the national average, while others will face lesser ones.

In our first series of calculations, we examine the impact of the caseload reduction credit when caseloads rise or fall within a relatively narrow band. We present three scenarios for the national caseload: (1) the national caseload remains flat, (2) it rises 5 percent a year, and (3) it declines 5 percent a year. Between 2002 and 2007 (the endpoint for the calculation of the 2008 caseload reduction credit), that would be a cumulative rise of 28 percent or a cumulative decline of 23 percent. As table A-6.1 shows, under these scenarios, the caseload reduction credit remains a potent force for mitigating the impact of federal participation requirements until 2006.

Beginning in 2006, however, the potency of the caseload reduction credit would be sharply reduced. If the caseload remains flat, recalibrating the base year would result in a credit

¹³²See Appendix A-9.

of just 2 percentage points, reducing the final required participation rate from 60 percent to 58 percent. If the caseload rises 5 percent per year, the credit would fall to zero, leaving a shortfall of 27 percentage points. Even if the caseload declines 5 percent per year, the credit would only be 16 percentage points, leaving a shortfall of 11 percentage points. (Our estimator allows users to enter their own estimate of the caseload change that can be counted for the caseload reduction credit.)

Table 6.1					
Continued Potency of the Caseload Reduction Credit					
Estimated Base Participation Rate vs. Adjusted H.R. 4 Participation Requirement					
Under Alternative Caseload Assumptions					
(Composite National Caseload)					
Assumption	2004	2005	2006	2007	2008
<i>A flat caseload</i>					
(1) Statutory rate	50%	55%	60%	65%	70%
(2) (Caseload reduction credit)	(50%)	(35%)	(2%)	(0%)	(0%)
(3) Adjusted required rate	0%	20%	58%	65%	70%
(4) Base participation rate	33%	33%	33%	33%	33%
(5) Participation surplus/(deficit) (Line 4 - line 3)	33%	13%	(25%)	(32%)	(37%)
<i>A 5 percent annual increase</i>					
(1) Statutory rate	50%	55%	60%	65%	70%
(2) (Caseload reduction credit)	(50%)	(29%)	(0%)	(0%)	(0%)
(3) Final required rate	0%	26%	60%	65%	70%
(4) Base participation rate	33%	33%	33%	33%	33%
(5) Participation surplus/(deficit) (Line 4 - line 3)	33%	7%	(27%)	(32%)	(37%)
<i>A 5 percent annual decline</i>					
(1) Statutory rate	50%	55%	60%	65%	70%
(2) (Caseload reduction credit)	(50%)	(42%)	(16%)	(14%)	(14%)
(3) Adjusted required rate	0%	13%	44%	51%	56%
(4) Base participation rate	33%	33%	33%	33%	33%
(5) Participation surplus/(deficit) (Line 4 - line 3)	33%	20%	(11%)	(18%)	(23%)

Notes:

- (1) The “base participation rate” refers to a recalculation of the 2001 national participation rate pursuant to the proposed rules in H.R. 4 and without applying any adjustments or exclusions authorized by H.R. 4.
- (2) Estimates of caseload decline or growth are based from a starting point of 2002 and a caseload of 2,038,000. The base year caseloads (excluding territories) for 2004 through 2006, respectively, are: 4,489,000 for 1996; 3,155,000 for 1998; and 2,088,000 for 2001. The base year caseloads for 2007 and 2008 are estimated based on caseload changes from 2002.
- (3) The calculation of the caseload reduction credit does not include the impact of the full-family sanction on the caseload.

In our second series calculations, we ask how much the nation’s caseload would have to change for the caseload reduction credit not to erase H.R. 4’s increased participation

requirements. By our calculation, the caseload would have to rise 83 percent between 2002 and 2003 to neutralize the caseload reduction credit's eradication of the 2004 participation requirements. The caseload would have to rise by 21 percent between 2002 and 2004 to do the same for the 2005 participation requirements.¹³³

Beginning in 2006, though, states would have to increase participation, unless the caseload fell by at least 25 percent between 2002 and 2005. Even larger declines would be needed to escape the higher participation requirements in 2007 and 2008; 32 percent and 37 percent, respectively, for the preceding three-year period¹³⁴ (see table A-6.2).

Table 6.2
Caseload Changes Needed
to
Neutralize/Trigger the Caseload Reduction Credit
(Composite National Caseload)

Caseload Change	2004	2005	2006	2007	2008
Total percent change	83% (2002–2003)	21% (2002–2004)	-25% (2002–2005)	-32% (2003–2006)	-37% (2004–2007)
Annual percent change	83% (2002–2003)	10% (2002–2004)	-9% (2002–2005)	-12% (2003–2006)	-14% (2004–2007)

Notes:

- (1) The estimates assume a “base participation rate” of 33 percent—a recalculation of 2001 national participation rate pursuant to the proposed rules in H.R. 4 and without applying any of the adjustments or exclusions authorized by H.R. 4.
- (2) Estimates of caseload decline or growth are based from a starting point of 2002 and a caseload of 2,038,000. The base year caseloads (excluding territories) for 2004 through 2006, respectively, are: 4,489,000 for 1996; 3,155,000 for 1998; and 2,088,000 for 2001. The base year caseloads for 2007 and 2008 are estimated based on caseload changes from 2002.
- (3) The calculation of the caseload reduction credit does not include the impact of the full-family sanction on the caseload.

New Interaction with Eligibility Changes. The caseload reduction credit assumes that the caseload decline is the result of families leaving welfare for work, marriage, or other changes in circumstances. But what if the cause is a *change in eligibility rules* that simply makes some families ineligible for aid, makes it more difficult for them to stay on welfare, or transfers them

¹³³The nation’s base participation rate of 33 percent falls short by 17 percentage points of the 2004 final required participation rate of 50 percent. Thus, to satisfy the participation requirement, a caseload reduction credit of at least 17 percent is needed, based on the decline between 1996 and 2003. As long as the caseload does not rise to more than 3,726,000 in 2003, from 2,038,000 in 2002, the caseload reduction credit will be at least 17 percentage points. So, between 2002 and 2003, the caseload can go up 83 percent.

¹³⁴For 2004, 2005, and 2006, we measure the caseload growth from 2002, based on each year’s respective base year. For 2007 and 2008, the base years are 2003 and 2004, respectively. The caseload reduction credit is unaffected by caseload changes between 2002 and the recalibrated base years, so we examine the implications of caseload changes from the new base years.

to a nonTANF assistance program (that is, for example, a separate state program)?

Under current TANF, states cannot count caseload declines that are caused by eligibility changes made since 1995, the base year for the credit. H.R. 4, however, recalibrates the credit by progressively advancing the base year. This recalibration of the caseload credit would permit counting the impact of eligibility changes made during or before the base year in the calculation of the credit. Thus, future caseload declines caused by an eligibility change could trigger an increase in the credit (as long as the policy was in effect during the base year of the calculation). For these reasons, the caseload reduction credit gives states an incentive to adopt policies that could discourage families from coming on assistance, encourage them to leave, or otherwise remove them from the rolls.

Significantly, a caseload reduction credit would also be generated by the creation or use of separate state programs. This question has not come up under the current version of TANF because states could not create a separate state program before or during the base year for the credit, so cases transferred to such programs continued to be counted as part of the caseload.¹³⁵ Under H.R. 4, though, the recalibrated caseload reduction credit could also be triggered by the transfer of cases to a separate state program for, say, families that have hit the time limit on benefits, that would otherwise incur a full-family sanction,¹³⁶ or that have a disability or health problem that precludes participation in a welfare reform activity. For example, for the 2007 participation rate, when the credit would be based on the caseload decline from 2003 to 2006, shifts to a separate state program could be counted as long as the program existed on or before 2003. States could probably also manipulate the timing of when such policy changes have their greatest impact on participation requirements: The greatest impact would be achieved by making the eligibility change as close to 2003 as possible while reserving the ability to increase the provision's impact until a year in which the participation requirement begins to bite. (We describe this double benefit and its timing below.)

An earlier version of this paper brought this issue to the attention of H.R. 4's drafters. We were told that they may attempt to prevent this result, but it is not clear that the credit, as currently structured, could be modified in a way that successfully prevents it from being

¹³⁵In fact, HHS has instructed the states to report caseload data for both their TANF program and any separate state programs. As HHS explains in the preamble to the final TANF regulations: "If a State moves a family receiving TANF assistance to a separate state program where it receives benefits meeting the definition of assistance, this change in the family's status would represent an eligibility change if we did not include separate State program (SSP) cases in the caseload count. Therefore, unless we require and receive the SSP information, it would be impossible to calculate the appropriate caseload reduction credit." See U.S. Department of Health and Human Services, "Temporary Assistance for Needy Families: Final Rule," *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17786, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed January 5, 2004. HHS appears to have adopted this approach to make it easier to estimate caseload reductions due to eligibility changes.

¹³⁶For a description of why this could be done even in the face of H.R. 4's seeming prohibition, see Appendix A-7.

triggered by transfers to separate state programs. (This is one reason why many have been attracted to a credit based on the employment of welfare leavers.)

The timing of an eligibility change and the speed at which it causes a caseload reduction would be important factors in determining the size and impact of the credit. The general rule is that, to trigger the caseload reduction credit, the eligibility change must have been in place during the relevant base year for the calculation of the credit. For example, because the 2007 caseload reduction is based on the decline from 2003 to 2006, the eligibility change must have been in place in 2003 to have any decline it causes counted. (These and related issues are discussed in the context of separate state programs, discussed below.)

As the foregoing suggests, the timing of policy changes and caseload declines can substantially affect the size of the caseload reduction credit. This interaction is discussed in a later section.¹³⁷

H.R. 4's Superachiever Credit

H.R. 4 would reward the seventeen states that, between 1995 and 2001, had exceptionally high caseload declines (more than 60 percent).¹³⁸ These states would qualify for a "superachiever credit" that would, in effect, reduce the required final participation rate by the amount their caseload decline exceeded 60 percent. Although the credit could not be used to lower the final required participation rate below 50 percent, it would be counted indefinitely. (S. XXX, unlike H.R. 4, does not create a superachiever credit.)

To conform to TANF's framework, technically, the superachiever credit *increases* the state's measured participation rate (by the lesser of the amount of the credit or the amount by which the statutory participation rate exceeds 50 percent) instead of reducing the rate that must be achieved. Thus, for example, Wisconsin's caseload decline of 76 percent between 1995 and 2001 would generate a maximum superachiever credit of 16 percentage points. As a result, between 2004 and 2007, the superachiever credit would be the difference between the statutory participation rate and 50 percent, effectively increasing the state's participation rate 0 percentage points in 2004, but 5 percentage points in 2005, 10 percentage points in 2006, and 15 percentage points in 2007. In 2008, it would reach its maximum of 16 percentage points.

¹³⁷See Appendix A-9.

¹³⁸The following seventeen states would benefit from the superachiever credit, with the maximum percentage point reduction shown in parentheses: Colorado (12 percent), Florida (15 percent), Georgia (4 percent), Idaho (20 percent), Illinois (14 percent), Louisiana (9 percent), Maryland (5 percent), Michigan (4 percent), Mississippi (10 percent), New Jersey (2 percent), North Carolina (6 percent), Ohio (3 percent), Oklahoma (9 percent), South Carolina (5 percent), West Virginia (2 percent), Wisconsin (16 percent), and Wyoming (20 percent). See U.S. Congress, House of Representatives, Committee on Ways and Means, "'Superachiever' Credit: Helping States With Large Past Caseload Declines Satisfy Rising Work Rates," 108th Cong., 1st sess., January 31, 2003, available from: <http://waysandmeans.house.gov/media/pdf/21superachievercredit.pdf>, accessed March 24, 2003.

The theory behind the superachiever credit is not clear. One justification sometimes offered is that these seventeen states reduced caseloads so much that they are left with the hardest-to-employ families. Another rationale is that these states are less likely to be able to take advantage of the general caseload reduction credit because their caseloads have already fallen to such a low level. The same would be true, however, for states that had reduced their caseloads as much—just earlier (or later) than the designated time period. Moreover, the large caseload declines in those states also mean that the absolute number of families that they have to deal with is considerably smaller. Finally, aside from political considerations, it is unclear why these states should benefit from the provision indefinitely, regardless of subsequent caseload changes, while other states have no chance of receiving a similar credit.

In 2001, the seventeen qualifying states had 23 percent of all welfare families with an adult.¹³⁹ They would have qualified for superachiever credits ranging from 2 percentage points to 20 percentage points. Because the states involved tend to have small populations, the national impact of the credit would be small (probably an increase of less than 2 percentage points), and we therefore do not include the superachiever credit in our national calculations.

However, some states would enjoy much larger benefits, as much as 20 percentage points. For example, Idaho and Wyoming would receive the maximum 20 percentage-point credit, followed by Wisconsin (16 percentage points), Florida (15 percentage points), and Illinois (14 percentage points). (Hence, our estimator allows states with a superachiever credit to enter its credit percentage.)

S. XXX's Employment Credit

S. XXX would replace TANF's current caseload reduction with an employment credit that would give states credit for the number of recipients who leave welfare for work. The credit would be based on a formula that seeks to identify those families that actually left welfare for work and, at state option, those receiving a diversion grant or "substantial" child care or transportation assistance. States could also receive "extra credit" for employed leavers with relatively high wages.

The maximum value of the credit would start at 40 percentage points in 2004 and be phased down to 20 percentage points in 2008. States could phase in the employment credit (while phasing out the caseload reduction credit), but S. XXX would cap the sum of the credits at 40 percent in 2004, 35 percent in 2005, 30 percent in 2006, 25 percent in 2007, and 20 percent in 2008. Like the caseload reduction credit, the employment credit would reduce a state's final required participation rate. Thus, in 2008, the required participation rate could be reduced from 70 percent to as low as 50 percent.

¹³⁹Authors' calculations based on unpublished data for 2002 from the U.S. Department of Health and Human Services, Administration for Children and Families.

Both the Congressional Research Service (CRS) and the Congressional Budget Office (CBO) estimate that, in 2008, most states would receive the maximum 20 percentage point reduction in the participation rate due to the employment credit, and thus face a final required participation rate of 50 percent.¹⁴⁰ (Our estimator allows users to enter a lower value for the employment credit, if that is the case.)

S. XXX's employment credit would be calculated by taking twice the average quarterly number of employed adult recipients who left welfare for at least two months and dividing by the average monthly number of TANF families with an adult in the previous year. This formula effectively doubles their impact because they are counted twice and not included in the denominator. The credit is so generous that virtually all states would receive the maximum credit of 20 percentage points in 2008, even if they do nothing to encourage employment. As a practical matter, the credit is not really an employment credit, but an indirect way to reduce the required participation rate by 20 percentage points.

To illustrate the size of S. XXX's employment credit for our composite national caseload, we use 2001 HHS data on the number of employed welfare leavers.¹⁴¹ The data indicate that the average monthly number of employed leavers in the third month after exit is 84,041, resulting in a quarterly average of 252,123 employed leavers. We take twice this number (504,246) and divide by the average monthly number of TANF adults (1,367,536),¹⁴² resulting in an estimated employment credit of 37 percentage points.

This is just the first step of the calculation. S. XXX would also give states extra credit for leavers with earnings equal to at least 33 percent of the states' average wage, counting them as "1.5 families." The Congressional Research Service estimates, based on an analysis in five states, that about 50 percent of employed leavers would meet the criteria for extra credit. This would raise the count of leavers from 502,246 to 627,808, increasing the value of the employment credit from 37 percentage points to 46 percentage points.

S. XXX would also allow states to count families that were not on welfare—if they receive diversion payments or "substantial" child care or transportation assistance. (The Secretary of Health and Human Services would be authorized to define the threshold for determining "substantial" child care or transportation assistance, either in terms of a dollar

¹⁴⁰Gene Falk, e-mail message to Peter Germanis, September 12, 2003; and Sheila Dacey, e-mail message to Peter Germanis, September 12, 2003.

¹⁴¹U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *How Much Is the Administration Employment Credit Worth – Preliminary Estimates* (Washington, DC: U.S. Department of Health and Human Services, April 10, 2003).

¹⁴²For our example, we assume that this is the same as the number of counted families for participation rate purposes.

value or time duration.)¹⁴³

This would undoubtedly increase the value of the employment credit because, unlike many welfare leavers, most recipients of diversion, child care, and transportation assistance are employed. Unless HHS regulates this provision closely, it would appear that states would be able to count most families receiving CCDF assistance, as well as those with diversion payments and transportation assistance.¹⁴⁴ Unlike the calculation for employed leavers, however, states would have to add twice the quarterly number of families receiving these various forms of assistance to both the number of employed leavers (the numerator) as well as to the average monthly number of TANF families with an adult in the previous year (the denominator). Adding the number of families to the denominator mitigates the impact of the option somewhat, but because the number of families receiving child care and the other forms of assistance can be considerable, this option has a large impact. For our example, if states counted half the number of the families receiving CCDF assistance in 2001, or about 500,000 families, the employment credit for our composite national caseload would increase from 46 percentage points to 69 percentage points. (Even counting just 10 percent of families receiving CCDF assistance would raise the employment credit to 53 percentage points.)

Thus, in 2008, the required participation rate could be reduced from 70 percent to as low as 50 percent. Most states would not need to adopt the optional provisions for either extra credit or to include families that receive diversion, child care, or transportation assistance. We show the impact of these provisions to explain why we and other observers assume that, in 2008, all states would qualify for a 20 percentage point employment credit under S. XXX.

¹⁴³S. XXX states: “In consultation with directors of state TANF programs, the Secretary is to define substantial child care or transportation assistance, specifying a threshold for each type of aid—a dollar value or a time duration. The definition is to take account of large one-time transition payments.” See U.S. Congress, Senate, Committee on Finance, *Personal Responsibility and Individual Development for Everyone Act of 2003*, 108th Cong., 1st sess., October 3, 2003, S. Rep 108-162, available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_reports&docid=f:sr162.108.pdf, accessed December 30, 2003.

¹⁴⁴S. XXX’s legislative language would appear to allow states to count TANF recipients with “substantial child care” even if they had not left welfare or were not working. Of course, HHS regulations may narrow the scope of what is considered a “substantial” amount of child care.

A-7. Adjustments, Exclusions, and Exemptions

Participation requirements under both H.R. 4 and S. XXX are subject to various optional adjustments and exclusions that, in effect, reduce the required amount of participation. This section also describes these provisions, how states might maximize their impact, and their likely effect on participation rates.¹⁴⁵ (States would retain the right to establish their own exemption policies, but the provisions described below would be the only situations in which families could be excluded from the participation rate calculation, unless a separate state program were created, as discussed in a later section.) This section also discusses diversion grants because, although they are not technically an exclusion from participation requirements, they have the same practical effect.

Applying these authorized adjustments and exclusions, we estimate, would raise the composite national caseload's participation rate from 33 percent to 45 percent under H.R. 4 and from 36 percent to 67 percent under S. XXX (which includes a 20 percentage point employment credit). Thus, these provisions also reduce the putative burdens both bills place on the states.

¹⁴⁵Under current TANF, states have the option of counting adults receiving assistance under a tribal family assistance plan. They can choose to count just those recipients satisfying the participation requirements, but must include them in both the numerator and the denominator of the calculation. (This provision can also be viewed as an exclusion, because it allows states to exclude adults receiving assistance under a tribal family assistance plan who do not satisfy TANF's participation requirements.) This flexibility to count participating tribal recipients on a case-by-case basis serves as an incentive for states to serve those receiving tribal assistance, but the number is small and this option has a negligible effect on the participation rate for our composite national caseload. Thus, even though both H.R. 4 and S. XXX continue this policy, we do not include it in our estimates below.

In addition, some states that have continued waiver policies in effect under the AFDC program that allowed them to expand the categories of families exempt from participation requirements. For example, Massachusetts exempts parents with a child under age six (in contrast to under age one under TANF). In 2001, these waivers allowed thirteen states to disregard an additional 85,075 families. As these waivers expire, however, the number of families affected will decline. H.R. 4 would not authorize the waivers to be extended after they expire, and S. XXX would not extend waivers that expand exemptions. (S. XXX would appear to limit the extension of waivers to those that broaden the scope of allowable activities, and no longer permit waivers that expand exemptions.) Hence, we do not include their possible impact in our estimates. See U.S. Department of Health and Human Services, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: Author, February 2003), p. III-106, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

Full-Family Sanctions

TANF currently allows states to set their own sanction policies for noncompliance with participation requirements. Some states reduce a family's grant (a partial sanction), and others terminate it completely (a full-family sanction). Still others adopt an intermediate approach, beginning with a partial sanction that escalates into a full-family sanction for repeated (or continued) noncompliance. A full-family sanction can raise participation rates by removing nonparticipating families from the welfare rolls or by inducing nonparticipating families to comply with program requirements and be counted. H.R. 4 requires states to adopt a full-family sanction, but S. XXX leaves it as a state option.

H.R. 4 also seeks to toughen the enforcement of participation requirements. It would mandate that states completely remove from TANF assistance families that do not comply with participation requirements for more than one month (called a "full-family sanction" as opposed to a "partial sanction").

H.R. 4 would effectively require all states to adopt either an immediate full-family sanction or a specified form of a progressive full-family sanction. If an individual failed to comply for two consecutive months, without good cause, the state would be required to terminate all cash assistance until the individual resumed full compliance. (In its first year, H.R. 4 exempts from this requirement states such as California and New York that have a constitutional or statutory requirement to provide assistance to needy parents and children.) Here is roughly how it would work: No later than the month after noncompliance, a state must issue notice of its intent to sanction; by the third month, a state must impose either a full or partial sanction; and, by the fourth month, all assistance must be terminated, assuming that noncompliance lasted for two consecutive months.

This would be a considerable stiffening of sanction rules: As of April 2000, only fifteen states had immediate full-family sanctions, whereas twenty-one states had progressive sanctions eventually leading to a full-family sanction (most of which might run afoul of H.R. 4) and fourteen states (and the District of Columbia) had only partial sanctions.¹⁴⁶ In 2001, about 3.9 percent of all TANF families were under a partial sanction for noncompliance with a participation requirement.¹⁴⁷

Under current TANF law, a state may "disregard" a family under a partial sanction from

¹⁴⁶Center for Law and Social Policy and Center on Budget and Policy Priorities, *Summary of State Sanction Policies* (Washington, DC: Center for Law and Social Policy/Center on Budget and Policy Priorities, June 2000), available from: http://www.spdp.org/tanf/sanctions_overview.pdf, accessed March 15, 2003.

¹⁴⁷U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-215, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

the participation rate calculation for up to three months in any twelve-month period. This rule provides a partial exclusion of such families from the participation rate requirement. This exclusion is most helpful to states that allow a partial sanction to continue for three months or longer. Because H.R. 4 requires a full-family sanction after one month of noncompliance, the exclusion would have a smaller impact. Nevertheless, it would continue to allow states with short-term partial sanctions to exclude sanctioned families from the participation rate calculation during the initial sanction period.

What about those states that do not have a full-family sanction and may not want to adopt one? A state could avoid the full-family sanction mandate by converting sanctioned families to a separate state program, much the way New York now converts families that reach the five-year time limit from TANF to its state- and local-funded Safety Net Assistance (SNA) program. Under SNA, families continue to receive essentially the same benefits, and the state can count expenditures on these families toward its maintenance-of-effort requirement. A state could adopt a similar policy for those families that would be required to receive a full-family sanction under H.R. 4 and continue to apply its existing sanction policy while they are in the separate state program.¹⁴⁸

A state would have another way to avoid this federally mandated full-family sanction: It could make it much more difficult to impose a sanction by, for example, imposing a higher burden on proof or a requirement of intent. Or, a state could establish very broad good-cause exceptions, sanctioning only the most flagrant violations of participation requirements (or it might simply not implement its formal sanction policies). Unlike transfers to a separate state program, however, this option would make it somewhat more difficult for states to meet participation requirements because it would keep nonparticipating families on the caseload and therefore counted in participation calculations. Similarly, a state could loosen its enforcement or compliance efforts, but this, too, seems unlikely because doing so would also increase the number of nonparticipating recipients on its caseload.

In yet another way to avoid imposing a full-family sanction, a state could, after a sanction, provide aid only to children in the form of a child-only case. Because there is no “work-eligible individual” receiving assistance, this would avoid the sanctioning and participation issue entirely. This would not be that different from the child-only cases that some

¹⁴⁸The transfer to a separate state program would have to occur during the first month of a sanction because, once a family has been sanctioned two consecutive months under TANF, the full-family sanction requirement would apply to families receiving assistance under a separate state program. This should not be an obstacle, however. The process of moving families to a separate state program can be nothing more than a change in accounting and need not involve a change in program operations. For example, a state with a partial sanction could simply file a financial report with HHS indicating that the families that had been subject to a partial sanction for at least one month had been transferred to a separate state program and thus became exempt from the participation and sanction requirements of the TANF program.

states have created for families that reach their five-year time limit.¹⁴⁹ Last, a state could provide non-cash assistance in lieu of cash assistance for those penalized. As mentioned above, this might not be practical for a state's entire caseload, but it might be considered for families that would otherwise be denied assistance.

We believe that most states without a full-family sanction will either adopt one or, to avoid the rule, will place some or all sanctioned families in a separate state program. Both actions raise participation rates because they remove cases from the TANF caseload. For simplicity of analysis, we assume that 75 percent of families with a partial sanction would be removed from the rolls as the partial sanction becomes a full-family sanction.¹⁵⁰ A full-family sanction is likely to lead some noncomplying recipients to participate in program activities. Hence, we also assume that 25 percent would begin participating and end the sanction. Last, we believe that some states will not want to adopt a full-family sanction and would respond to the mandate by less rigorous enforcement and imposing fewer sanctions. We do not attempt to quantify the percentage of families affected. (Our estimator allows users to enter their own estimate of the percentage of families with a partial sanction that would be terminated, transferred to a separate state program or the child-only caseload, or begin complying.)

Based on these assumptions, we estimate that removing such cases from TANF rolls would have the effect of increasing the participation rate from 33 percent to 36 percent. A full-family sanction could also trigger a caseload reduction credit, reducing the gap between the actual participation rate and the final required participation rate. We do not estimate a caseload reduction effect, however, because the effect is likely to be small due to the relatively small number of cases with a partial sanction.¹⁵¹

S. XXX, unlike H.R. 4, would not require states to adopt a full-family sanction, but would essentially retain current TANF sanction policies. (The only modification would be to require states to describe how they would deal with noncomplying families.)

¹⁴⁹See Appendix A-9.

¹⁵⁰H.R. 4 would actually allow states to levy a partial sanction for the first month of noncompliance, which would leave more families on the rolls. But because such families can be excluded from the participation rate calculation for three months in a twelve-month period, they would not affect the number of counted families. Because we do not have data on the number of families by the length of their sanction, we simply reduce the total caseload by 75 percent of the number of partial sanctions.

¹⁵¹Moreover, if a state were to implement the full-family sanction provision at the beginning of 2004, the caseload decline would occur in the first few months of the year, which would lower the average monthly caseload for the year by nearly the full amount of the decline. Thus, in 2008, when the eligibility change could be considered for the caseload reduction credit, the measured decline in the average monthly caseload between 2004 and 2007 would be much smaller than the actual number of sanctioned cases, all else being constant. (A state could generate a larger, one-time caseload reduction credit for 2008 by adopting the full-family sanction policy in the last month of 2004, thereby delaying the caseload decline until 2005. This would show a caseload decline equal to the number of cases removed from the rolls for the period between 2004 and 2007, all else being constant.)

Although S. XXX's heightened participation requirements may encourage some states to adopt a full-family sanction (or make greater use of it, if they already have one), we make no assumption about an increase in the number of full-family sanctions under it, and, hence, leave the figure unchanged. (Our estimator, however, allows users to enter their own estimate of the additional percentage of families that, under S. XXX, might be sanctioned off welfare or that might begin complying.) Because we make no estimate of the impact of a full-family sanction, the estimated participation rate under S. XXX remains 56 percent (which includes a 20 percentage point employment credit).

S. XXX's Post-Sanction Exemption

Current TANF allows states to “disregard” from the participation rate calculation families with an adult subject to a work-related sanction (as long as the sanction has not been in effect for more than three months in the preceding twelve-month period). This disregard applies to families that have received a “pro rata” reduction in their welfare grant. Some states, however, maintained the AFDC sanction policy in which the needs of the noncomplying adult are removed from the grant. These cases become child-only cases and are not subject to participation requirements and are excluded from the participation rate calculation irrespective of the length of the sanction.

Both H.R. 4 and S. XXX allow states to continue to exclude these families, although the practical significance of the exclusion under H.R. 4 is minimal because the bill would require states to adopt a full-family sanction for noncompliance with participation requirements.

In 2001, about 40,000 families were reported to HHS as having been excluded due to this provision,¹⁵² even though more than 80,000 families were reported to have a partial sanction for noncompliance with a “work requirement.” This discrepancy may arise for three reasons. First, the number of families excluded is limited to those that have been sanctioned less than three months in the preceding twelve-month period. Second, some states may not have reported all the families that could be excluded, because they could satisfy the participation requirements without excluding them. Third, some states continued the AFDC sanction policy and removed the needs of the noncomplying adult, thereby creating a child-only case that is not subject to participation requirements.

For lack of a better estimate, however, we use the 40,000 figure for our calculation even though it may understate this provision's impact. On that basis, the S. XXX's post-sanction exclusion of families with a partial sanction would have the effect of increasing the participation rate from 56 percent to 57 percent (both of which include a 20 percentage point employment

¹⁵²U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families Program (TANF): Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-215, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/index.htm>, accessed February 25, 2003.

credit).

First Month of Assistance

Although there is some question about H.R. 4,¹⁵³ both bills would allow states, on a case-by-case basis, to exclude from participation requirements families that are in their first month of assistance. This provision recognizes that there may be a delay between the time a family begins to receive assistance and the time it can be placed in a work activity. (This could be a particular issue in states that pay benefits retroactively to the date of application.)

In 2001, about 9 percent of TANF families with an adult were in their first month of assistance and, under this provision, could be excluded from participation requirements.¹⁵⁴ So it might seem that this is a very important provision. Certainly, it would reduce the number required to participate with the stroke of the pen while imposing no administrative burden greater than, perhaps, reprogramming the agency's computers. But the value of this exclusion would depend on the participation rate of the families in that first month, because states would be expected to exclude only those that do not satisfy the participation requirements.

Thus, the central question in deciding whether a state should exclude a first-month case is whether it is participating in a countable activity for sufficient hours. Given the emphasis on work first and job search activities under TANF, most observers assume that participation rates are relatively high in the first month of assistance, but the available evidence suggests otherwise. Separate analyses by both the Congressional Research Service and the Congressional Budget Office, using participation data collected by the U.S. Department of Health and Human Services, find that if states applied the first-month exclusion, participation rates would rise.¹⁵⁵ This suggests that the participation rate for these families is lower than that for the rest of the caseload. Unfortunately, these studies do not indicate the magnitude of the effect.

To avoid overstating the potential impact of this provision, and in the absence of firm data on the participation rate of families on their first month of assistance, we assume that these

¹⁵³Whereas S. XXX is clear that the provision could be applied on a case-by-case basis, H.R. 4 is ambiguous. Most experts we consulted believe that H.R. 4's ambiguity would allow HHS to regulate the provision either way and that HHS would give states maximum flexibility. Thus, we treat the provisions as if they were equivalent.

¹⁵⁴Authors' calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-188, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹⁵⁵Gene Falk, Congressional Research Service, personal communication to Peter Germanis, May 8, 2003; and Sheila Dacey, Congressional Budget Office, personal communication to Peter Germanis, June 4, 2003.

families are participating in a countable activity at about half the rate of the caseload as a whole. Applying this assumption, the first-month-of-assistance exclusion would, on its own, increase the national participation rate by 3 percentage points under both H.R. 4 (from 33 percent to 36 percent) and S. XXX (from 36 percent to 39 percent). Combined with the adjustments and exclusions described above, this would also raise the national participation rate an additional 3 percentage points under H.R. 4 (from 36 percent to 39 percent) and S. XXX (from 57 percent to 61 percent, both of which include a 20 percentage point employment credit). (But because the number of TANF families in their first month of assistance and their participation rates undoubtedly vary from state to state, our estimator allows users to enter their own first-month caseload and participation rate for this group.)

Child under Age One

TANF currently permits states, on a case-by-case basis, to exclude from the calculation of participation requirements families with a child under age one. This provision, presumably, is meant to accommodate state differences concerning the imposition of participation requirements on mothers with very young children.

This TANF provision allows states to count, selectively, families that are participating in countable activities, while excluding those that are not. States might want to include cases or categories of cases that have relatively high participation rates (such as teenage parents still in school), and they might want to exclude cases or categories of cases that have relatively low participation (such as mothers of newborns). For example, about a dozen states exempt mothers with a child under age twelve weeks to give them time to recover from childbirth and bond with their child.¹⁵⁶

Under HHS regulations, this provision is limited to a “cumulative, lifetime limit of 12 months for any single custodial parent, but not necessarily a one-time disregard. Thus, if a parent were disregarded from the rate for four months while caring for one child under age one, he or she could be disregarded for as much as 8 months with a subsequent baby.”¹⁵⁷

H.R. 4 would continue the TANF rule but would eliminate the lifetime limit, increasing the potential total time a family with a young child could be excluded from participation rate counts. (H.R. 4 also extends the exclusion to two-parent families.) In 2001, about 18 percent of

¹⁵⁶These exemptions apply to state participation requirements and do not automatically result in an exclusion from the federal participation rate calculation. Center for Law and Social Policy and Center on Budget and Policy Priorities, *Work Requirements: Exemptions: As of October 1999* (Washington, DC: Center for Law and Social Policy/Center on Budget and Policy Priorities, July 2000), available from: <http://www.spdp.org/tanf/exemptions.pdf>, May 1, 2003.

¹⁵⁷U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families: Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17773, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed January 5, 2004.

TANF families with an adult had a child under age one and thus could potentially be excluded from the calculation of participation rates.¹⁵⁸ In determining this provision's impact on the participation rate, the key question, of course, is the participation rate of these families. Unfortunately, we could find no direct data on the subject.

Instead, to gauge the possible reach of this provision, we examined the degree to which states exempted mothers with young children from TANF's current participation requirements. States that now exempt these mothers, it seems reasonable to assume, would continue to do so under H.R. 4. In 2002, twenty-seven states exempted mothers with a child under age one from participation requirements, whereas twenty-three states and the District of Columbia had either no exemption or set their exemption at less than age one (generally around three months).¹⁵⁹

In states with exemptions set at age one or older, the participation rate is probably close to zero except perhaps for school attendance and participation in activities that would satisfy the three-month rule. (Even states that exempt mothers with children under age one from work-related participation requirements may under the broad flexibility of the three-month-activity provision choose to require participation in parenting and other appropriate activities for this group.) What about mothers in the remaining states? We have not found data on their participation rate and, hence, assume that it is about the same as that of the rest of the caseload.

Considering these factors, and in the absence of direct data, we assume that about half of the mothers with a child under age one are in states that exempt them, so their participation rate is relatively low, and that the other half are in states where their adjusted participation rate is the same as other mothers (about 40 percent). On this basis, for the purposes of our national calculation, we assume that 20 percent of mothers in this group would participate and, consequently, we exclude the remaining 80 percent from the participation requirements.

Under H.R. 4, the child-under-age-one exclusion would, on its own, increase the national participation rate by 5 percentage points, from 33 percent to 38 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 6 percentage points, from 39 percent to 45 percent. (Because the number of TANF families with a child under age one that do not participate in a countable activity varies

¹⁵⁸ Authors' calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-190, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹⁵⁹ Authors' calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. XII-325 and p. XII-326, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

from state to state, our estimator allows users to enter their own estimate for this group.)

S. XXX also would retain current TANF law, but it would not lift the twelve-month per family lifetime limit on the use of the exclusion, as H.R. 4 would. (Our estimator, however, makes no distinction between the bills, because the impact of the lifetime limit is likely to be very small.)

Under S. XXX, the child-under-age-one exclusion would, on its own, increase the national participation rate by 5 percentage points, from 36 percent to 41 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 6 percentage points, from 61 percent to 67 percent (both of which include a 20 percentage point employment credit). (Our estimator allows users to enter their own estimate.)

Diversion Grants

In response to either bill, we expect states to make greater efforts to divert families from welfare, particularly if they are not likely to satisfy the participation requirements. One way some will do so will be through “diversion grants.” Although they are not technically an exclusion from participation requirements, they have the same practical effect.

Most states have an application process that seeks to encourage applicants to look for work or other sources of support (often called “work first”). In many states, diversion grants are part of this process. Although keeping people off welfare is the main purpose of diversion grants, they also reduce the number of recipients required to participate in work or work-related activities, because they keep applicants off welfare or postpone and therefore shorten the time they spend on welfare.

Diversion grants are supposed to help with some immediate need—usually to keep or get a job. TANF regulations define diversion grants as “nonrecurrent, short-term benefits, which (1) are designed to deal with a specific crisis situation or episode of need; (2) are not intended to meet recurrent or ongoing needs; and (3) will not extend beyond four months.”¹⁶⁰

¹⁶⁰U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families: Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17880, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed January 5, 2004. The final TANF rule defines diversion expenditures as: “Any expenditures on nonrecurrent, short-term benefits to families in the form of cash payments, vouchers, or similar form of payment to deal with a specific crisis situation or episode of need and excluded from the definition of assistance on that basis. Do not include expenditures on support services such as child care or transportation (including car repairs) or work activities and expenses (such as applicant job search) provided under a diversion program; these items should have been reported in prior reporting categories.” See U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families: Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17918, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed January 5, 2004.

Diversion grants, for example, are used to help applicants and recipients pay for the repairs of a car needed to get to work. Payments range from a few hundred dollars to up to \$3,000. In 2002, twenty-nine states and the District of Columbia had some form of cash diversion program.¹⁶¹ States do not now make many of these grants, but they could.

In 2002, states spent about \$238 million on diversion payments (about 0.9 percent of total spending).¹⁶² Because the amount and duration of diversion payments varies from state to state, it is not possible to estimate the number of families that receive diversion grants, but the spending estimate suggests that the number is small.

By serving as a substitute for welfare, diversion grants can reduce the number of families on the official caseload. And, because diversion grants are not considered “assistance,” families receiving them are generally not considered part of a state’s welfare caseload and hence are not subject to federal participation requirements or time limits. The impact on participation rates depends on whether these families would have been more or less likely to participate than existing welfare families. That could encourage targeting. Diversion grants could be used to keep off welfare (at least temporarily) those families applying for assistance that are unlikely to satisfy participation requirements, such as those with disabilities or temporary health problems, and exclude them from the participation rate calculation. This would effectively allow a state to count participants and exclude nonparticipants (as with the exclusion for mothers with a young child discussed below).

Moreover, a state could continue to exclude nonparticipating families for up to the maximum diversionary period of four months, rather than just the one-month period allowed under H.R. 4’s first-month exclusion. (If the family subsequently went on welfare, it could be excluded for another month under the first-month exclusion, resulting in an effective five-month exclusion from the participation rate calculation.)

Diversion grants are usually made as a lump sum. But lump-sum grants can increase welfare costs—because they provide assistance to some families that would have found some other way of coping and, thus, would not have gone on welfare (because of stigma or for some other reason). In addition, a grant that covers four months worth of assistance may provide assistance for a longer period than the amount of time the applicant would have spent on

¹⁶¹U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. XII-341–343, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003,

¹⁶²U.S. Department of Health and Human Services, Administration for Children and Families, *Fiscal Year 2002 TANF Financial Data*, various tables, available from: http://www.acf.dhhs.gov/programs/ofs/data/tanf_2002.html, accessed July 7, 2003. This is a minimum because the category may exclude some types of expenditures, such as one-time car repairs, that are considered diversion payments in some states.

welfare. Thus, by providing diversion payments in lieu of regular assistance, states could inadvertently increase costs by increasing payments to those who would have avoided (or left) welfare anyway and by offering payments without any work-related requirements.

Even this problem can be avoided, however, because current federal regulations do not require that diversion grants be made in a lump sum, merely that they be “nonrecurrent.” Minnesota’s new diversion program illustrates how this might be done. It would require counties to divert most welfare applicants from its basic welfare program, the Minnesota Family Independence Program (MFIP), for up to four months while they engage in work-focused activities. The purpose would be to help families “from ever having to apply for MFIP” by providing support and services during the diversionary period.¹⁶³ (Unlike most diversion grants, Minnesota’s grant would be paid monthly and would not exceed the MFIP cash standard, which, in 2001, was about \$828 per month for a family of three.) Although this seems consistent with federal rules, it is difficult to see how this differs from regular welfare—save for the label.¹⁶⁴

The increased use of diversion grants would have two effects. First, the smaller welfare caseload would mean that the state would need to place fewer families in activities. Second, the likely caseload decline could trigger a caseload reduction credit. For example, a state could adopt an expansive cash diversion program in 2003 but initially make very little use of it. Then, in 2007 or later years, it could expand the program, thereby lowering caseloads by preventing families from coming on the rolls. (Even if a state had no intention of using such a policy, it would make sense to adopt as many policies like this as possible in the event that the state needed rapid caseload reductions to generate a caseload reduction credit.)

For our national calculation, we do not include a caseload decline attributable to diversion because there are many variations and there is no way of telling what states will do.

¹⁶³Contained in “Topical Bill Summary: Article 1 of H.F. 905, Welfare Reform Provisions,” material provided by Chuck Johnson, Minnesota Department of Human Services, e-mail dated March 25, 2003. See also Reggie Wagner, *Summary of 2003 Legislation on the Minnesota Family Investment Program (MFIP)* (St. Paul, MN: Legal Services Advocacy Project, June 17, 2003), available from: <http://www.mncn.org/ao/LSAPMFIPFactSheets603.pdf>, accessed October 9, 2003.

¹⁶⁴Minnesota’s diversion program, however, is not a model many states are likely to adopt under either bill because the program is likely to reduce the state’s participation rate. The program is targeted to new applicants who must participate in “work first” activities to remain eligible for the diversion payment. Because these families are likely to have very high participation rates, excluding them from TANF (for at least four months) would probably lower the state’s participation rate. In addition, the diversion program would exclude those applicants who are unlikely to participate, that is, those over age sixty or applying for SSI. Instead, these applicants would be enrolled in TANF and, because they have relatively low participation rates, they would tend to lower the state’s participation rate. The more effective strategy for raising participation rates would be to do the opposite: divert those unlikely to participate and enroll those who are likely to be involved in countable activities. Nevertheless, one advantage of the Minnesota approach is that, when combined with the first-month exclusion and the three-month-activity rule (discussed below), it gives states programmatic freedom for up to eight months. Another is that it may generate caseload declines that could trigger a caseload reduction credit.

(Our estimator does not include a separate line to enter the potential impact of diversion on caseloads. At user option, the predicted caseload decline can be reflected by going to the start of the estimator and revising the initial estimate of the caseload in future years to reflect the estimated decline due to diversion. The estimator then automatically recalculates the caseload reduction credit.)

A-8. Job Search and Three-Month Activities

As much as anything, job search, job readiness,¹⁶⁵ and work first activities have characterized welfare reform since 1994. Both H.R. 4 and S. XXX would increase the countability of job search activities: S. XXX would make job search a direct work activity (potentially resulting in about 2 percentage points of additional participation) and both would make it a three-month-activity (for an additional 3 percentage points under H.R. 4 and an additional 8 percentage points under S. XXX).

These provisions are, in effect, an invitation to states that have not already done so to establish an application process that contains systematic job search and work first activities that help and encourage applicants to find alternatives to welfare by requiring them to look for a job. Moreover, if configured as “independent” job search, doing so would cost very little.

Job Search under TANF

Job search and job readiness programs are typically organized around a “work first” program. They seek to encourage applicants (and recipients) to look for work and to give them skills to do so successfully. Specific activities can include classroom instruction on job seeking skills, help in completing job applications and preparing resumes, access to phone banks, and job clubs or other forms of peer support.

These activities can help applicants and recipients find (and keep) jobs through the encouragement and concrete services they provide. Many states help applicants and recipients prepare a resume, develop interview skills, learn about the expectations and attitudes necessary to hold down a job, take classroom instruction in job search techniques, and even life skills training, motivational exercises, and family budgeting. For example, Washington state’s work first program begins with a one-week job search workshop and is followed by twelve weeks of

¹⁶⁵Although TANF uses the phrase “job search and job readiness assistance” to encompass one category of activity, practice has been to treat them as divisible activities that separately can satisfy participation requirements. See, for example, U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families Program (TANF); Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17782, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru2.htm>, accessed December 31, 2003, stating: “In determining whether an individual is ‘engaged in work’ for the participation rates, the statute provides for 12 different work activities. One of those activities is ‘job search and job readiness assistance’; the statute does not recognize them as separate components. As we indicated in the discussion at Sec. 261.30, we do not have the discretion to add to those activities or to separate job search from job readiness. If a State has two different activities as part of its TANF program, it would have to count an individual’s participation in either one toward the limits described in this section.”

intensive job search for thirty-two to forty hours per week.¹⁶⁶ This can include independent job search as well as group job search activities in which recipients are provided counseling, help in preparing resumes, and other services.

Job search and other work first activities also can discourage mothers from seeking or staying on welfare, because they add to the burden of applying for or being on assistance—what welfare professionals often call “smoke out” and “hassle.” (Those unable to find employment may later be assigned to other activities—often in conjunction with ongoing job search—such as education, training, or work experience programs.) For example, one study of the TANF application process conducted for the U.S. Department of Health and Human Services provided suggestive evidence that job search requirements can have important caseload effects:

The sites that have implemented applicant job search requirements have introduced an activity that has increased the burden in time and cost for applicants. In fact, in the site with the most stringent job search requirement (Cook County), 62 percent of the study sample either decided not to apply for TANF or did not complete the application process—a proportion nearly twice that of most other sites.¹⁶⁷

And, if there were a full-family sanction for not participating, noncomplying families could be removed from the rolls, raising the state’s participation rate (while simultaneously producing benefit savings from the sanction).¹⁶⁸

Under current TANF, an individual’s participation in job search and job readiness assistance can generally be counted toward participation requirements for only six weeks per year, and only four of these weeks may be consecutive. Another six weeks of job search can be provided if the state’s unemployment rate is 50 percent higher than the national average or the state has experienced an increase in its food stamp caseload of at least 10 percent in the most recent three-month period.¹⁶⁹

¹⁶⁶Northwest Justice Project, *TANF and Work First for Students* (Seattle, WA: Northwest Justice Project, 2003), available from: <http://www.nwjustice.org/docs/7138.html>, accessed April 8, 2003.

¹⁶⁷Christopher Botsko, Susan Schreiber Williams, Alan Werner, Kendra Lodewick, Diane Porcari, and Jesse Valente, *Study of the TANF Application Process: Final Report: Volume 1* (Washington, DC: U.S. Department of Health and Human Services, April 2003), available from: <http://www.acf.dhhs.gov/programs/ofa/ifr/IFR-ExecSum.htm>, accessed July 23, 2003.

¹⁶⁸In addition, removing noncompliant families from the rolls would ordinarily increase a state’s participation rate, but not as much as if they were to meet the participation requirements and stay on the rolls.

¹⁶⁹Current TANF’s actual rules governing the duration of job search and job readiness assistance are somewhat more complicated than this summary suggests. According to HHS regulations, the longer twelve-week job search limit would be triggered if the state’s total unemployment rate is at least 50 percent greater than the U.S. unemployment rate and if the state meets the definition of a “needy state.” A needy state is defined as one in which:

Job Search as a Direct Work Activity under S. XXX

S. XXX would essentially continue TANF's provisions concerning job search (H.R. 4 would not), but it would drop the limitation that no more than four of the weeks of job search can be consecutive. It would also modify current TANF rules governing the six-week extension, permitting an extended period during which job search can be counted if a state's unemployment rate is 50 percent or more above the national average or, if as a result of economic conditions, its TANF caseload increased by 5 percent and its food stamp caseload increased by 15 percent over a comparable period in the preceding two years.¹⁷⁰

We believe that states will maximize the use of the mandatory job search for six weeks at application or soon thereafter.¹⁷¹ How many recipients could be counted under a six-week job search requirement pursuant to S. XXX? One approach to deriving this estimate would be to count all those in the first six weeks of assistance, assuming that none were participating in any countable activities. As described above, according to HHS, about 9 percent of TANF adults are in the first month of assistance, suggesting that as many as 13 percent could be in the first six weeks of assistance and potentially eligible for job search. This may, however, substantially overstate the percentage of TANF adults that could actually be assigned and counted to a six-week job search activity, because some may be returning to welfare after a brief exit and could not be counted in job search if they had participated in the activity within the past year. In addition, some recipients leave welfare during the first month of assistance or

“(1)(i) The average rate of total unemployment (seasonally adjusted) for the most recent 3-month period for which data are published for all States equals or exceeds 6.5 percent; and (ii) the average rate of total unemployment (seasonally adjusted) for the most recent 3-month period equals or exceeds 110 percent of the average rate for either (or both) of the corresponding 3-month period in the two preceding calendar years; or (2) The Secretary of Agriculture has determined that the average number of individuals participating in the Food Stamp program in the State has grown at least 10 percent in the most recent 3-month period for which data are available.” [See U.S. Department of Health and Human Services, Administration for Children and Families, “Temporary Assistance for Needy Families Program (TANF); Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17879, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru4.htm>, accessed April 15, 2003.]

¹⁷⁰S. XXX's proposed rules governing the duration of job search and job readiness assistance are also somewhat more complicated than suggested in the text. According to S. XXX, the six-week job search extension would be triggered if the state's total unemployment rate is at least 50 percent greater than the U.S. unemployment rate or if the state meets the definition of a “needy state.” S. XXX defines a “needy state” as one in which the TANF caseload increased by at least 5 percent over a comparable three-month period in the preceding two years, as a result of economic conditions rather than state policy changes, and any of the following three criteria are met: (1) the unemployment rate increased by the lesser of 1.5 percentage points or by 50 percent over a comparable three-month period in the preceding two years, (2) the insured unemployment rate increased by 1 percentage point over a comparable thirteen-week period in the preceding two years, or (3) the food stamp caseload increased by at least 15 percent over a comparable three-month period in the preceding two years.

¹⁷¹For participation rate purposes, the six-week job search period begins as soon as a family begins receiving assistance, or in the fifth week of assistance, if the state uses the first-month exclusion. Although a state may also require job search during the application process or in the first month of assistance even if it uses the first-month exclusion, such job search is not counted toward participation requirements.

shortly thereafter, so for states that use the first-month exclusion, the number receiving assistance in a subsequent six-week period would be somewhat lower than suggested by this simple extrapolation. Finally, some recipients are likely to be counted as participating in other activities, especially unsubsidized employment, and would not be removed from those activities to be placed in job search.

Our estimate takes these factors into consideration and excludes most of those returning to welfare (who may have participated in job search within the past year), those who left welfare within a month of coming on, and those participating in other countable activities.

First, to estimate the number of recipients in the first six weeks of assistance, we use CBO tabulations of HHS data that suggest that in 2001 about 10 percent of the caseload had been on assistance for two to four months. Assuming that a state uses the first-month exclusion, then the six-week job search period would begin in the second month and cover about half of the three-month period for which we have data. This suggests that about 5 percent of TANF adults could potentially be in a six-week job search activity.¹⁷² (As explained above, however, the CBO data may lead to an underestimate of the number of recipients in the first six weeks of assistance, because the variable used is based on total time on welfare, not the time since the most recent opening. Thus, many recipients with prior welfare spells who have returned to welfare and would be appropriate candidates for job search would not be counted using this variable.)

Second, to avoid double-counting those already counted toward the participation rate during those six weeks, we subtract all those participating in an activity other than job search. Unfortunately, we do not have participation data based on the time recipients have been on welfare, so we simply assume that the participation rate of recipients in this six-week period is the same as that of the rest of the caseload. In fact, they are probably less likely to participate, because they may not have been assigned to a program activity or started working since coming on welfare. This means that a relatively larger percentage of this group would be available for job search than reflected in our estimate. Again, in the absence of firm data, we rely on what we believe is the more conservative estimate. Thus, we conservatively estimate that this leaves about 3.5 percent of the TANF caseload with an adult for potential participation in job search in the first six weeks of assistance.

Third, to gauge the degree to which the number of recipients in job search can be increased, we subtract all those already counted in job search. This assumes that all existing job search is conducted in the first six weeks of assistance. This too is likely to overstate the number that should be excluded, because some of those in job search may be in a second or third twenty-four-month period. This reduces our estimate of the additional impact of the six-

¹⁷²The fact that the current national level of job search roughly equals the maximum possible for job search in the first six weeks of assistance suggests that states are reporting only as much job search as they think is countable or that six weeks of job search is about the standard practice.

week job search requirement to just 2 percentage points.

Based on these assumptions, we estimate that implementing mandatory job search at application for six weeks would, on its own, increase the national participation rate by 1 percentage point, from 36 percent to 37 percent. (The independent effect of this provision would be 4 percentage points if those already participating in job search and included in the base participation rate were counted in the six-week total.)

Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 2 percentage points, from 66 percent to 68 percent (both of which include a 20 percentage point employment credit). [Although our estimate is admittedly conservative, our estimator permits a state to alter our assumptions about the potential duration of job search, the percentage of the caseload in the six-week (or state-specified) period, and the percentage that could reasonably be placed in a job search activity.]

Job Search as a Three-Month Activity under Either Bill

Both H.R. 4 and S. XXX would make job search countable under their broad three-month-activity provisions. States could count participation in job search for three months in a twenty-four-month period. This is about the same amount of time as would be allowed under current TANF, assuming six weeks of job search each year, but double the allowable amount in one year. (Because many TANF recipients are not on welfare more than one year, however, these short-term recipients would not receive more than six weeks of job search under current TANF rules, but could receive the full three months under either bill's three-month-activity rule. Thus, they would have the potential for increasing participation rates due to job search participation compared to current TANF.)

Requiring job search as a three-month activity could have a larger effect under S. XXX than under H.R. 4, because there is less room in H.R. 4's three-month provision for job search because it could also count other activities, such as vocational educational training, that are considered direct work activities under S. XXX and do not have to be included in its three-month provision.

Under H.R. 4, job search at application could only be counted as a three-month activity. Based on the CBO estimates described above, we estimate that about 10 percent of adult recipients are in the first three-month period and could participate under the three-month-activity rule immediately after coming onto the welfare rolls.¹⁷³ To avoid double counting recipients already counted toward the participation requirements, we subtract those in a direct work activity already counted toward the participation rate in the first three-month period

¹⁷³If the first-month exclusion was exercised, the three-month period would be the second through fourth months of assistance. If the first-month exclusion was not exercised, the three-month period would be the first three months of assistance.

(using the participation rate for the entire caseload in a direct work activity), all adult recipients in job search, and one half of the number of adult recipients remaining in an activity not considered a direct work activity (because the other half is assumed to be in a subsequent twenty-four-month period).

Hence, under H.R. 4, implementing mandatory job search at application as a three-month-activity provision would, on its own, increase the national participation rate by 3 percentage points, from 33 percent to 36 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 4 percentage points, from 45 percent to 49 percent. (Our estimator allows state officials or others to enter their own estimate of the percentage of adult recipients in the first three-month period, the percentage that could reasonably be placed in a countable activity, and the percentage in an activity not considered a direct work activity in the first twenty-four-month period.)

Under S. XXX, job search at application could be counted for six weeks as a direct work activity, as described above, and then as a three-month activity. (Although job search and job readiness assistance is limited to six weeks per year, a state could easily redefine and relabel this activity as a barrier removal activity under S. XXX and continue to count it for an additional three months under the three-month-activity rule.) We estimate the impact of the three-month-activity rule under S. XXX essentially following the same basic steps used for H.R. 4's three-month-activity provision. Based on the CBO tabulations described above, we again estimate that about 10 percent of adult recipients are in the first three months of assistance and could participate under the three-month-activity rule immediately after completing their first six weeks of job search.¹⁷⁴ To avoid double counting recipients already counted toward the participation requirements, we subtract those in a direct work activity already counted toward the participation rate in the first three-month period (using the participation rate for the entire caseload in a direct work activity other than job search) and all adult recipients counted in job search for six weeks, and one half of the number of adult recipients remaining in an activity not considered a direct work activity (because the other half is assumed to be in a subsequent twenty-four-month period).¹⁷⁵

Hence, under S. XXX, we estimate that using the three-month-activity provision if used for mandatory job search would, on its own, increase the national participation rate by 7 percentage points, from 36 percent to 43 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 8

¹⁷⁴If the first-month exclusion was exercised, the three-month period would follow the six-week job search period and would be the eleventh through twenty-second week of assistance. If the first-month exclusion was not exercised, the three-month period would be the seventh through the eighteenth week of assistance. We assume the 10 percent estimate applies to the three-month period regardless of when it actually starts.

¹⁷⁵If a state reports a higher number of recipients in activities not considered direct work activities than allowed by this calculation, we do not count the "excess" participants, but they could be considered under the second three-month provision of the additional three-month-activity rule described below.

percentage points, from 69 percent to 77 percent (both of which include a 20 percentage point employment credit). (Our estimator allows users to enter their own estimate of the percentage of adult recipients in the first three-month period, the percentage that could reasonably be placed in a countable activity, and the percentage in an activity not considered a direct work activity in the first twenty-four-month period.)

“Independent” Job Search

How easy would it be to expand job search activities?

In 2001, 4 percent of all TANF families with an adult were in job search and job readiness assistance activities and had enough hours of participation in that or other activities to be counted as participating,¹⁷⁶ and another 2 percent were in job search and job readiness but did not have enough hours to be counted. They represented about 14 percent of all adults in a countable activity. Only seven states had more than 10 percent of TANF families with an adult participating in a job search or job readiness activity for enough hours in that or another activity to be counted: New Hampshire (12 percent), Wyoming (12 percent), Tennessee (13 percent), Maine (15 percent), Wisconsin (16 percent), Idaho (18 percent), and Oregon (27 percent).¹⁷⁷

These figures may understate the amount of actual participation in job search, because of the limits in counting job search for participation rate purposes and the fact that few states have had to document all their participation to satisfy current TANF. As Mark Greenberg and Hedieh Rahmanou of the Center for Law and Social Policy explain:

Job search and job readiness are among the most common program activities. However, job search and job readiness only count toward federal participation rates for six weeks per family per year (except in periods of defined high unemployment). States are told *not* to report hours of job search or job readiness for more than six weeks in the job search/job readiness category. States may report additional job search/job readiness

¹⁷⁶This estimate does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a job search activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

¹⁷⁷Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a job search activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

participation as “other” but most states do not do so.¹⁷⁸

So it is likely that some states will be able to raise their participation rates merely by more fully reporting job search activities already taking place.

We also expect states to expand and formalize their job search requirements, because it is relatively inexpensive and often effective in reducing caseloads. The most likely approach would be for a state or locality to assign all new applicants to an application process¹⁷⁹ that screens applicants and assigns them to either (1) job search or (2) an activity designed to address a particular barrier to employment, such as substance abuse treatment or mental health services, for their first four months of assistance (assuming that the first month is excluded from the participation rate calculation). If, after the fourth month, the family has not left welfare or gained unsubsidized employment, it could be assigned to a direct work activity such as community service or work experience, or transferred to a separate state program.

This strategy would apply to all applicants, but there could be early transfers to alternate activities for those who do not belong in the regular work first process, such as the elderly, the disabled, and those with substantial health problems. We expect that most states would eventually put most of these families in a separate state program anyway. The state could count the time spent in an alternative activity for the remainder of the three-month period. After that, if they still need treatment (or another service), they could continue to receive it and either not be countable or be transferred to the relevant separate state program, described below.

Actually, a state could easily take advantage of this provision without expanding its job search/work first programs very much—if it simply required recipients to engage in “independent job search”; that is, to look for work *on their own*. Independent job search programs are relatively inexpensive, because few services are provided and monitoring is minimal. The agency could supervise the activity quite lightly, if at all.

For example, supervision could be limited to periodic self reports¹⁸⁰ about employer

¹⁷⁸Mark Greenberg and Hedieh Rahmanou, *TANF Participation in 2001* (Washington, DC: Center for Law and Social Policy, March 18, 2003), p. 3, available from: http://www.clasp.org/DMS/Documents/1048004065.37/2001_TANF_Participation.pdf, accessed April 15, 2003.

¹⁷⁹We believe most states will require job search as soon as a family applies for welfare. For participation rate purposes, the six-week job search period begins as soon as a family begins receiving assistance, or in the fifth week of assistance, if the state uses the first-month exclusion. Although a state may also require job search during the application process or in the first month of assistance even if it uses the first-month exclusion, such job search is not counted toward participation requirements.

¹⁸⁰See Sheila Dacey and Donna Wong, “Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003,” memorandum to interested parties, May 8, 2003, p. XXX, stating: “Because most states would otherwise find these requirements difficult to meet, we assume that states would allow a broad range of activities, including unsupervised and self-

contacts or other job search activities. We are informed that a state could have an independent job search requirement that involves self-directed job search with one employer contact per month. Moreover, this requirement could be used to satisfy a twenty-four, thirty-four, or forty-hour per week participation requirement. And compliance could be verified by having someone from the welfare agency simply call the recipient (or vice versa) to verify that the requirement has been met. Of course, most states may want a more serious requirement, but there is no federal requirement that they have one.

Mark Greenberg of CLASP has expressed doubts that states could expand participation so easily and without incurring more substantial costs, but his real point is that he thinks states should require other activities that he thinks “will lead to better employment outcomes.” Whether or not he is correct, our point is that both bills would allow states to pursue a low-cost job search strategy.¹⁸¹ Moreover, research has shown that even light job search requirements can increase employment and reduce welfare caseloads.¹⁸² In addition, by helping states satisfy their participation requirements at minimal cost, a job search approach would remove the specter of a financial penalty and leave states the freedom to develop whatever programmatic approach they believe will be most effective in raising employment or achieving other state goals.

On one hand, if implemented as part of a comprehensive attempt to move more welfare mothers to the world of work, this provision could be an important next step in the evolution of welfare reform. On the other hand, pared down to little more than independent job search, this would be a quick, easy, and inexpensive way to help meet participation requirements. Of course, states do not face an either/or choice, and many might decide to adopt middle-ground programs that are somewhat less intensive but still rigorous versions of work first programs.

Whichever approach a state adopts, another advantage of applying this provision to a work first program is that recipients can be deemed to have begun their participation

reported activities, to count toward the final 16 hours and the three-month period. For this reason, we assumed that anyone who currently meets a 24-hour requirement or participates in a state-reported activity for at least 1 hour during the three-month period could meet a 40-hour requirement at no additional cost.”

¹⁸¹Mark Greenberg, personal communication to Douglas J. Besharov, January 8, 2004, stating: “1) Even if a state has very broad discretion in defining which activities are countable, states still face costs for out-of-home activities, will need to have some means of validating participation, and will face some instances in which actual participation is less than scheduled participation, so it isn’t the case that states can easily and at minimal cost treat everyone as engaged for the first 3 months or treat 24 hour participants as 40 hour participants; and 2) There are things states might be able to do to raise their rates which will make their numbers look better but which states either haven’t wanted to do as a matter of policy or in some instances may actually lead to poorer program performance. So, the question shouldn’t just be whether a particular approach will lead to a higher measured participation rate, but also whether there’s reason to believe that it will lead to better employment outcomes.”

¹⁸²Dan Bloom and Charles Michalopoulos, *How Welfare and Work Policies Affect Employment and Income: A Synthesis of Research* (New York, NY: Manpower Demonstration Research Corporation, May 2001).

immediately upon assignment to it, because they can be deemed to have immediately begun job search efforts (unlike other activities for which there may be a wait for a slot to become available or a program component to begin operation.) Hence, at application, most states could easily achieve 100 percent participation for all families in the activity.

Obversely, a partial disadvantage of such a universal, intensive work first mandate is that families cycling on and off welfare will be put through the process repeatedly but will only be countable for participation rate purposes if they have not previously been counted within the preceding twenty-four-month period. This is only a partial disadvantage, however, because one presumes that they might benefit from the process.

Because a rigorous job search/work first program also could reduce caseloads, our estimator makes provision for a possible caseload decline (which could also possibly trigger a caseload reduction credit). For our national calculation, however, we do not include a caseload decline because the intensity and therefore impact of job search activities will vary widely among states. (Our estimator does not include a separate line to enter the potential impact of job search on caseloads. At user option, a predicted caseload decline can be reflected by going to the start of the estimator and revising the initial estimate of the caseload in future years to reflect the estimated decline due to job search. The estimator then automatically recalculates the caseload reduction credit.)

Subsequent Three-Month Periods

The foregoing describes how job search could be required under H.R. 4 and S. XXX's three-month activity provisions. For our national composite caseload, we assumed that states would use the first three-month period to require job search at application. What about the subsequent two three-month periods? States that need to raise participation rates but do not want to increase participation in direct work activities or create separate state programs could claim credit during the second and third three-month periods for additional activities already taking place, or other easy-to-establish activities.

H.R. 4. How much could participation be increased under H.R. 4's three-month activity provision? Based on the CBO estimates described above, we estimate that about 10 percent of adult recipients are in the second and third three-month periods and that states could find and place half of them in program activities (leaving 5 percent). (As described above, we count adult recipients in the first three-month period in mandatory job search). To avoid double counting, we subtract all those in a direct work activity (1.5 percent) and half of those in an activity not considered a direct work activity in the subsequent two three-month periods (2 percent). This leaves 1.5 percent of the adult caseload that could be counted in a three-month activity.

Hence, under H.R. 4, implementing the three-month-activity provision for the second and third three-month periods would, on its own, increase the national participation rate by 2 percentage points, from 33 percent to 35 percent. Combined with the adjustments and

exclusions described above, this would raise the national participation rate an additional 1 percentage point, from 49 percent to 50 percent. (Our estimator allows users to enter their own estimate of the percentage of adult recipients in the second and third three-month period, the percentage that could reasonably be placed in a countable activity, and the percentage in an activity not considered a direct work activity in the second and third three-month periods.)

S. XXX. Requiring increased participation in a three-month activity would have a slightly larger effect under S. XXX than under H.R. 4. S. XXX counts more activities as direct work activities than does H.R. 4, so fewer of the activities included in its base participation rate are counted as three-month activities, leaving more room under its three-month activity provision for increased participation.

We estimate the impact of the three-month-activity rule under S. XXX essentially following the same basic steps used for H.R. 4's three-month-activity provision. Based on the CBO tabulations described above, we again estimate that about 10 percent of adult recipients are in the second and third three-month periods and that states could find and place half of them in program activities (leaving 5 percent). (As described above, we count adult recipients in the first three-month period in mandatory job search). We then assume that states could find and place half of those in the second and third three-month period (leaving 5 percent). To avoid double counting, we subtract all those in a direct work activity (1.5 percent) and half of those in an activity not considered a direct work activity in the subsequent two three-month periods (1 percent). This leaves 2.5 percent of the adult caseload that could be counted in a three-month activity.

Hence, under S. XXX, we estimate that using the three-month-activity provision in the second and third three-month periods would, on its own, increase the national participation rate by 3 percentage points, from 36 percent to 39 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 3 percentage points, from 77 percent to 80 percent (both of which include a 20 percentage point employment credit). (Our estimator allows users to enter their own estimate of the percentage of adult recipients in the second and third three-month periods, the percentage that could reasonably be placed in a countable activity, and the percentage in an activity not considered a direct work activity in the second and third three-month periods.)

S. XXX's additional three-month-activity provision could also be applied to raise participation rates further, but we do not model it because we think that few if any states will need to use it. (For this reason, our estimator also does not include this provision.)

A-9. Separate State Programs

As we saw, applying the optional adjustments and exclusions authorized by both bills along with mandatory job search at application would bring the national caseload's participation rate to about 49 percent under H.R. 4 and 75 percent under S. XXX (which includes a 20 percentage point employment credit). Won't the states simply put enough of their caseload in separate state programs to raise their participation rate to the required rate?¹⁸³

That is what both the Congressional Budget Office and Congressional Research Service suggest might happen. In regard to last year's similar reauthorization bill, the CBO said that it "expects that states will move many nonworking families into separate state programs to reduce the work requirements and avoid financial penalties."¹⁸⁴ Similarly, Gene Falk and Shannon Harper of the Congressional Research Service observe:

The increased work participation rates and restricted set of allowable activities under H.R. 4 could potentially lead states to create separate state programs for some families. Under H.R. 4, a number of states would need to substantially increase work participation in direct work activities or face financial sanctions. Rather than accept decreased federal TANF funds, it is likely that states would use their ability to operate separate state programs using maintenance of effort funds to provide assistance to non-exempt families that were not meeting the work requirements. At the extreme, states could achieve virtually 100% participation rates by keeping only those families that meet the rates in the federally-funded TANF program.¹⁸⁵

Other factors, however, would operate to limit state use of separate state programs.

¹⁸³U.S. Congress, Congressional Budget Office, *Cost Estimate: H.R. 4090: Personal Responsibility, Work, and Family Promotion Act of 2002, As ordered reported by the House Committee on Ways and Means on May 2, 2002* (Washington, DC: U.S. Congressional Budget Office, May 13, 2002), pp. 7-8, available from: <ftp://ftp.cbo.gov/34xx/doc3428/HR4090.pdf>, accessed December 30, 2003, stating: "States can count funds they spend in separate state programs toward their maintenance of effort requirement in TANF, but families served under those programs do not count in the work participation rate."

¹⁸⁴U.S. Congress, Congressional Budget Office, *Cost Estimate: H.R. 4090: Personal Responsibility, Work, and Family Promotion Act of 2002, As ordered reported by the House Committee on Ways and Means on May 2, 2002* (Washington, DC: U.S. Congressional Budget Office, May 13, 2002), p. 19, available from: <ftp://ftp.cbo.gov/34xx/doc3428/hr4090.pdf>, accessed December 30, 2003.

¹⁸⁵Gene Falk and Shannon Harper, *TANF Work Participation Requirement Proposed in Welfare Reauthorization Legislation* (Washington, DC: Congressional Research Service, May 7, 2003), p. 25.

We estimate that most states will, at least, create separate state programs for recipients who have work limitations or have hit the federal time limit on benefits. They might also create separate state programs for those in educational programs (especially under H.R. 4). The impact of these programs, together with the caseload reduction credit under H.R. 4, are the final reason why the putative requirements under both bills are much less substantial than they seem.

Attractions

Separate state programs, largely funded by Maintenance of Effort (MOE) funds, are an easy way to provide cash assistance to needy families (including those who would otherwise be on TANF) without being subject to federal participation requirements and time-limited benefits. As mentioned above, in 2001, about twenty-seven states and the District of Columbia had already moved portions of their TANF caseloads into separate state programs for “two-parent families, families with physical, mental health, substance abuse, or domestic violence issues; families in which the parent or caretaker is receiving or has applied for Supplemental Security Income; families in which the caretaker relative is not the parent; families in which a parent is attending postsecondary school; or families in which the minor parent is a student.”¹⁸⁶ (The most common separate state programs are for two-parent families, created to avoid TANF’s more stringent participation requirements for them: About fifteen states decided that the 90 percent participation rate for such families was unreachable, or at least impractical.)¹⁸⁷

Undoubtedly, more states would have created separate state programs to escape TANF’s participation requirements had not the caseload reduction credit essentially reduced

¹⁸⁶U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. II-10, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹⁸⁷Here is how California’s Legislative Analyst’s Office described such a shift in California:

. . . due to concern that California might not continue to meet the two-parent participation rate requirement, even with the caseload reduction factor, the state moved the two-parent caseload into a separate state-funded program in FFY 2000. . . . Separate state programs are not subject to many of the Temporary Aid to Needy Families (TANF) requirements, including the work participation requirement. Therefore, beginning in FFY 2000, the only applicable participation rate for California is the all-families rate, and only single-parent families are included in the calculation.

We note that shifting the two-parent caseload into a separate state-funded program did not result in additional General Fund costs above California’s MOE spending requirement of \$2.7 billion. This is because spending on the two-parent caseload falls within the \$2.7 billion spending requirement. As a result, the reorganization was simply a budget-neutral shift of state and federal monies.

See California Legislative Analyst’s Office, “Welfare-to-Work Participation in CalWORKS Program,” *The 2002-03 Budget Bill: Perspectives and Issues*, available from: http://www.lao.ca.gov/analysis_2002/2002_pandi/pi_part_5c_calworks_anl02.html, accessed March 24, 2003.

them to zero.¹⁸⁸ (States that still faced a participation requirement easily met it through “unsubsidized employment”; that is, by combining work and welfare.)¹⁸⁹ Just about all observers expect more separate state programs under H.R. 4 and S. XXX because its higher participation requirements leave less room for noncountable activities.

Conversely, because both bills would eliminate the separate 90 percent participation requirement for two-parent families, we also expect some (or all) states to close the separate state programs they created to remove them from this tough requirement.¹⁹⁰ Because the average level of participation for two-parent families is usually higher than that of one-parent TANF families (or could easily be increased), adding them back to the caseload would make it easier to satisfy the new participation requirements. (In 2001, under TANF’s current rules, the participation rate for two-parent families in separate state programs was 41 percent, in contrast to only 34 percent for all families in the TANF program.)¹⁹¹

It is an imposing phrase: “separate state program.” Setting up a separate state program, however, is simple enough. In fact, it may involve nothing more than a label placed on a paper transaction. Administratively, the process of moving families to a separate state program can be nothing more than a change in accounting procedures—without necessarily having to change program operations. For example, a state wishing to create a separate state program for, say, families with a disabled adult, need only file a financial report with HHS indicating that such families were in a separate state program and thus were exempt from the participation requirements, even though they may otherwise have appeared to be part of the state’s TANF program. Some states have retroactively reclassified families from TANF into Maintenance-of-Effort (MOE) funded separate state programs. For example, when HHS issued Virginia a penalty for failing to meet the two-parent participation rate in 1998, the state “retroactively moved its two-parent caseload to a separate State program and was therefore not subject to a

¹⁸⁸See Douglas J. Besharov, “Testimony,” before U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Human Resources, *Implementation of Welfare Reform Work Requirements and Time Limits*, 107th Cong., 2nd sess., March 7, 2002, available from: <http://www.welfareacademy.org/pubs/testimony-030702.pdf>, accessed April 17, 2003.

¹⁸⁹See Douglas J. Besharov, “Testimony,” before U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Human Resources, *Implementation of Welfare Reform Work Requirements and Time Limits*, 107th Cong., 2nd sess., March 7, 2002, available from: <http://www.welfareacademy.org/pubs/testimony-030702.pdf>, accessed April 17, 2003.

¹⁹⁰Some states might be tempted to transfer to welfare only two-parent families that are meeting the new participation requirements, which would be the inverse of Rhode Island’s current practice, as described below.

¹⁹¹U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. III-102 and III-126, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

TANF participation rate or penalty for that caseload.”¹⁹² Moreover, separate state programs need not be any more difficult to administer than keeping cases in current caseload (although they may involve developing new eligibility rules and operational procedures).

Separate state programs, however, face two potential limits: one financial and the other political. Both are addressed below.

Insufficient Funds?

Some states may not have enough funds available to expand their separate state programs sufficiently. This is usually described as insufficient MOE funds because up to now most separate state programs have been financed with MOE funds. The fear is that, because separate state programs are usually funded by MOE funds, and because MOE funds are effectively set by a formula based on past state spending,¹⁹³ states that had the lowest matching contributions under AFDC or whose caseloads have fallen least since 1994 (the base year for the MOE calculation) will have difficulty finding MOE funds to support a large enough separate state program. (This is seen as a particular problem in those southern states that have low MOE requirements.)

The actual numbers tell a different story, however. Even states with relatively low MOE requirements would, on paper at least, have enough money to move a substantial portion of TANF families with an adult to a separate state program. Because caseloads have fallen sharply in almost all states, most states have sufficient MOE funds to shift at least 50 percent of their TANF families with an adult to a separate state program and could continue to do so, unless caseloads rose substantially.

Mississippi, for example, had the smallest percentage contribution of all states in 1994 (21 percent) and thus might be expected to have limited capacity to shift families to a separate state program. But we estimate that, in 2001, the state’s MOE funds could have placed 110

¹⁹²U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-97, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

¹⁹³Under the Aid to Families with Dependent Children program (AFDC), the federal government paid 50 to 83 percent of benefit costs and 50 percent of administrative costs. States paid the remainder. TANF requires that states continue to spend 80 percent of what they had spent on AFDC and related programs in 1994. This MOE requirement is reduced to 75 percent for states that have met the work participation requirements. Some of the requirements that apply to federal funds, such as the five-year time limit on benefits, may not apply to state MOE funds, depending on how a state structures the funding for its programs.

percent of its TANF families with an adult into a separate state program.¹⁹⁴ (Nearly half of the state's caseload is child-only cases, which would continue to be served with federal TANF dollars). Similarly, West Virginia could shift 61 percent of its TANF families with an adult to a separate state program. Even if its caseload doubled, West Virginia could still serve 31 percent of its families in a separate state program. Thus, unless caseloads rise substantially, state funding levels do not appear to be a barrier to creating separate state programs.

The real problem is that most states have already committed a large portion of their MOE funds to various ongoing activities, so that using MOE funds for separate state programs would require defunding other valued activities—which often have their own powerful constituencies. Thus, the problem is not the amount of MOE funds but the fact that they are *already committed to other purposes*, and that to use them for a separate state program would require reducing support for other—currently funded—activities, such as child care.¹⁹⁵ So the problem is political: How to shift some or all of these funds from current activities—and from current grantees, contractors, and recipients—to a separate state program with no existing

¹⁹⁴We estimated the number of TANF families with an adult that could be served with the state's MOE funds by dividing its MOE requirement (\$21.7 million) by the average annual benefit per family with an adult, plus another 15 percent for administrative costs (\$2,498). This number of families with an adult that could potentially be served was 10 percent greater than the number actually served (8,697 families vs. 7,900 families, both on an average monthly basis).

¹⁹⁵See, for example, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. II-8–II-9, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. HHS reports that states have used their MOE funds to provide a wide range of benefits and services beyond basic cash assistance:

While States have continued to provide the traditional supportive services to families, like child care and transportation, many States have also used their funds to provide preventative services to help youth, young children, and families at-risk of either remaining or becoming welfare recipients. Programs for youth and children include: after-school and stay-in-school programs; teen pregnancy prevention programs; and community youth grants. These programs provide services like tutoring, counseling, job referrals, and community activities as alternatives to drug abuse, gang activity, sexual activity, and dropping out of school. State expenditures on initiatives such as home visiting programs for expectant families, families of newborns, and other at-risk families recognize the need to avert potential child abuse and neglect before it occurs. Some States also targeted services to further responsible fatherhood and parenting through a male involvement program in classrooms and coalitions, and by providing parental and family counseling services.

States also spent their MOE funds to provide services to help overcome barriers to work. These included domestic violence services, substance abuse services, foster and kinship care services, and family preservation services. Other supportive service expenditures that promoted family, work and job preparation included help with utilities, rent or mortgage assistance; primary and secondary school textbook rental fee reimbursement programs for low-income families, tuition and book fees for post-secondary school or training programs, part-time student grant programs; and medical services not met by Medicaid/SCHIP for children in low-income families. A few States provided income supplements by paying out the refundable portion of the State's earned income or working family tax credit. One State also used MOE funds to pay out the refundable portion of its child and dependent care tax credit.

constituency?

Another way exists to finance separate state programs: federal TANF funds. Unless there is a change in federal law or regulations, nothing seems to prevent a state from using federal TANF funds to supplant state spending on a qualifying, nonTANF activity, and then to use the resultant savings to finance a new separate state program for the families transferred off TANF.¹⁹⁶ (Contrary to the widespread assumption that a state must first provide cash assistance before using federal TANF funds for other purposes, there is no such provision in law or regulation.) In fact, many states have already used federal TANF funds to supplant state spending for a wide range of state programs, including state earned income tax credits, low-income housing tax credits, Head Start programs, public schools, pregnancy prevention activities, immunizations, nutritional services, and many other activities.¹⁹⁷

Significant for this discussion, some states appear to have used their freed-up federal TANF funds to help meet their MOE requirements. Essentially, they used their surplus federal TANF funds to replace existing state spending on programs for needy families and then used the freed-up state funds as state MOE expenditures, either as part of the general TANF program or to fund a separate state program.

What about states that do not have many state-supported programs that could be supplanted (or that have already exhausted all reasonable forms of supplantation)? For example, in Louisiana, reported the General Accounting Office, “State budget officials said that state general funds for social services are relatively scarce, and there are very few programs financed with state funds that are not already being used to match federal funds in other programs or to meet the TANF maintenance-of-effort requirement.”¹⁹⁸ Although this assessment may be correct, it may also be the case that these state officials were simply not thinking creatively enough about potential sources for supplantation. For, the possibilities do seem quite extensive.

The basic rule is that states must use TANF funds for eligible, “needy”¹⁹⁹ families with a child to meet one of TANF’s four goals to: “(1) provide assistance to needy families so that

¹⁹⁶Although TANF has an antisupplantation provision regarding state MOE funds, it does not have one for federal funds.

¹⁹⁷See generally U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, DC: U.S. General Accounting Office, August 2001), available from: <http://www.gao.gov/new.items/d01828.pdf>, accessed June 20, 2003.

¹⁹⁸U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, DC: U.S. General Accounting Office, August 2001), p. 87, available from: <http://www.gao.gov/new.items/d01828.pdf>, accessed June 20, 2003.

¹⁹⁹States set their own definition of “needy,” but they must use objective criteria for determining eligibility and benefits.

children may be cared for in their own homes or in the homes of relatives; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families.”²⁰⁰

Besides cash assistance, federal TANF funds have been used to support a wide range of activities, such as: (1) cash-related assistance, including cash assistance, refundable tax credits, kinship care programs, nonrecurring short-term benefits (diversion grants), and individual development accounts; (2) employment and training activities, including work experience, subsidized employment, on-the-job training, job skills training, job search, adult basic education, postsecondary education, and vocational education; (3) support services, including child care, transportation (van pools, public transportation, and car repair assistance), case management, substance abuse treatment, and rehabilitation services; (4) family-related services, including family violence counseling, family formation services (parenting skills training, marriage counseling, and crisis or intervention services), pregnancy prevention (nurse home visiting, youth counseling, and pregnancy prevention campaigns), and outreach for medical benefits; and (5) child-related activities, including Head Start expansion and after-school programs. (There are some restrictions on the use of federal TANF funds not relevant here.)²⁰¹

Although state funds freed up by such supplantation are often used to support low-income families, they have also been used to support other kinds of state programs.²⁰² The

²⁰⁰U.S. Congress, House of Representative, *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, H.R. 3734, 104TH Cong., 2nd sess., 1996, sec. 103(a)(1)/sec. 401(a) (Washington, DC: U.S. Government Printing Office, 1996), p. 9.

²⁰¹See generally U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, *Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program* (Washington, DC: U.S. Department of Health and Human Services, 1999), available from: <http://www.acf.hhs.gov/programs/ofa/funds2.htm>, accessed June 20, 2003. TANF funds cannot be used for child support enforcement activities, to finance the construction or purchase of buildings, finance another federal program, or to support a family that has received assistance for more than sixty months unless it is in an exempt category. In addition, federal TANF funds cannot be used for medical services other than pre-pregnancy family planning services and, in some states, for juvenile justice and foster care activities. (The use of federal funds for juvenile justice and foster care activities is limited to those states that had Emergency Assistance plans covering these categories under the prior AFDC program.) None of these restrictions apply to separate state programs funded with MOE dollars.

²⁰²See Zoe Neuberger, Sharon Parrott, and Wendell Primus, *Funding Issues in TANF Reauthorization* (Washington, DC: Center on Budget and Policy Priorities, February 7, 2002), p. 9, available from: <http://www.cbpp.org/1-22-02tanf5.pdf>, accessed June 30, 2003, stating:

While most TANF spending over the past few years has been used to maintain or expand a broad array of programs for low-income families, several states have used federal TANF funds to replace or “supplant” funds the state had previously spent on programs that now meet the broad TANF purposes. For example, prior to 1996 a state could have had substantial state resources devoted to child welfare services, low-

General Accounting Office (GAO) conducted a detailed study of supplantation in ten states, representing “a diverse array of socioeconomic characteristics, geographic locations, experiences with state welfare initiatives, and state fiscal and budget issues.”²⁰³ The GAO reported that supplantation was a common practice among the ten study states, with the amount of supplantation ranging from 5 percent to 25 percent of the annual TANF block grant. The GAO then attempted to determine how the freed-up funds were spent.²⁰⁴ In many cases, the funds were used for programs that provided assistance to low-income families. For example, Texas used some of its savings to fund certain child welfare expenditures that could not be counted as part of the state’s MOE requirement. In other cases, however, the funds were used to support broader state objectives. Wisconsin used some of its savings to finance a property tax cut. Finally, some of the savings from supplantation were simply used to bolster state reserves. Maryland used the savings to create a “dedicated reserve for its welfare program,” and Connecticut used them to enlarge its general funds surplus.

On balance, concluded the GAO, “when looking at the broadest level of TANF-related social services, it is apparent that most states have maintained or even increased their own investment over time to address the overall needs of low-income families.”²⁰⁵ But that could easily change under pressure to escape H.R. 4’s participation requirements by creating separate state programs. For example, between 2002 and 2003, New York State used about \$1.6 billion of surplus TANF funds to supplant state spending on existing programs such as prekindergarten programs and tax credits for child care and the working poor.²⁰⁶ And, in 2003,

income tax credits, or services for homeless families. Some states replaced state spending in such areas with federal TANF funds and then used the freed up state resources for other purposes, sometimes including state tax relief. When this occurred, the federal TANF funds did not result in expanded services for low-income families and were ultimately used instead for other state purposes. The 1996 welfare law prohibited such supplantation with state MOE funds, but due to what may have been a legislative oversight, a comparable restriction was not imposed on federal TANF funds.

²⁰³U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, DC: U.S. General Accounting Office, August 2001), available from: <http://www.gao.gov/new.items/d01828.pdf>, accessed June 20, 2003.

²⁰⁴Tracking the patterns of expenditures proved difficult. As state officials in Oregon explain, however, “because money is fungible, it is impossible to say precisely which programs were funded with the freed up funds. . .” See U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, DC: U.S. General Accounting Office, August 2001), p. 120, available from: <http://www.gao.gov/new.items/d01828.pdf>, accessed June 20, 2003.

²⁰⁵U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, DC: U.S. General Accounting Office, August 2001), p. 45, available from: <http://www.gao.gov/new.items/d01828.pdf>, accessed June 20, 2003.

²⁰⁶Jordan Rau, “Records Show State Diverts Funds Earmarked For Needy,” *Newsday.com*, November 7, 2003, available from: <http://www.newsday.com/news/local/state/ny-stwelf023528943nov07,0,875042.story?coll=ny-stateneews-print>, accessed November 21, 2003.

New York used 13 percent of its TANF funds to pay for an expanded Earned Income Tax Credit.

Such supplantation may be more difficult in those states (such as California and Colorado) that have devolved TANF funding and programming to county government. Although the dynamics that may make supplantation attractive at the state level will likewise make it attractive at the county level, there may be a state-imposed prohibition (as in Colorado).

Political Defensibility

All this, however, may be too cute by half—and might stir HHS and Congress to prohibit the practice. Already, in response to the possible use (or abuse) of separate state programs, in 2003, Senator Jim Talent (R-MO) introduced a bill that would apply TANF’s participation requirements to adults receiving cash assistance under an MOE-financed separate state program.²⁰⁷ There is no way of knowing whether this restriction or a similar one will become law, but it could be easily evaded. As suggested by the foregoing discussion, all a state would have to do is fund an existing state-funded program with federal TANF dollars instead (the only limitation is that the existing state program meets one of TANF’s broad objectives), and use the freed-up state dollars to provide assistance to families that would otherwise have been subject to TANF’s participation requirements. If the state funds were not claimed as part of TANF’s MOE requirement, the Talent provision would not apply. Consequently, this analysis ignores the possibility that this provision will be in the final law.

An antisupplantation provision for TANF funds would be more difficult to circumvent but, given past history, we have no doubt that the states would find ways to do so. For example, it is apparently quite easy to circumvent the existing bar on supplantation with state MOE funds. A state can simply make minor modifications to an existing program and change the program’s name. Then it can use its MOE dollars to fund the program because it is considered a new program.

This suggests, however, that the real limit to the use of separate state programs to avoid H.R. 4’s participation requirements is political defensibility. Technically, a state can simply move some number of nonparticipating cases out of TANF (thereby raising its participation rate and reducing the absolute number of recipients it needs to place in work activities). Indeed, Rhode Island uses federal money for families that meet the two-parent participation requirement and state money, through a separate state program, for those that do not. One HHS official observed, “Obviously, they aren’t perfect at this game, since their two-parent rate was 94.8 percent—not 100 percent.” (This compares to a 7.0 percent participation rate in their

²⁰⁷U.S. Congress, Senate, *Compassion and Personal Responsibility Act of 2003*, S. 5, 108th Cong., 1st sess. (February 14, 2003), available from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s5is.txt.pdf, accessed January 27, 2004.

separate state program.)²⁰⁸ This blatant evasion and similar actions in other states did not cause an uproar because they were responses to the widely appreciated impracticality of the 90 percent participation rate for two-parent families.

Given the popularity of “welfare reform,” few state leaders will want to be accused of undermining it. Hence, we do not expect broad, indiscriminate separate state programs that have no putative purpose except to evade federal participation requirements. That is why, up to now, most separate state programs have been based on defensible rationales. Call it the “smell test.”

For example, the explanation given for Maryland’s separate state program—for “legal non-citizens who came to this country after August 22, 1996, single parents taking care of a disabled child, customers who are disabled and applying for Supplemental Security Income (SSI), customers who are not disabled enough to qualify for SSI but unable to work 20 to 30 hours a week, [and] victims of domestic violence”—is that it would allow the state to develop “individualized participation requirements” and enable Maryland to design programs for targeted populations that have special needs or to create innovative approaches to support work.”²⁰⁹

Similarly, Vermont’s separate state programs—for adults in postsecondary education, parents who are not participating in work activities for the required number of hours when necessary to meet federal work participation rate requirements, and single parents with a child under the age of two (subject to a 24-month life-time limit)—were justified on the grounds that they would enhance “the state’s ability to preserve longstanding Vermont policies to meet the federal work participation rates and preserve federal funding.”²¹⁰

Essentially, then, we expect states to create separate state programs for those populations whose exclusion from H.R. 4’s strict participation requirements can be easily defended (for example, those with work limitations). That should not be difficult. H.R. 4, after all, would not allow states to exclude the elderly, the disabled, those with a temporary health problem or incapacity, those in substance abuse treatment programs, or those who otherwise have work limitations that prevent participation in work activities. Although widely abused in the past, these conditions could easily be defended as justifying a separate state program. (As

²⁰⁸Personal communication with Peter Germanis, May, 2003.

²⁰⁹Richard Larson, “State of Maryland Comments on Proposed TANF Regulations - Part 2,” (Washington, DC: U.S. Department of Health and Human Services, February 18, 1998), available from: <http://www.acf.dhhs.gov/HyperNews/get/tanf/reg/39.html>, accessed April 1, 2003 (emphasis added).

²¹⁰Vermont Department of Prevention, Assistance, Transition, and Health Access (PTAH), *Annual Report to the Governor and the General Assembly on Vermont’s Reach Up Program* (Waterbury, VT: Vermont Department of Prevention, Assistance, Transition, and Health Access, January 31, 2002), p. 5, available from: http://www.dsw.state.vt.us/wrp/wrppdf/Act147_FINAL.pdf, accessed March 24, 2003.

described below, depending on the circumstances, it could trigger a one-time or longer-term caseload reduction credit.)

We do not expect states to create separate state programs for child-only cases, even though doing so could trigger a caseload reduction credit under H.R. 4. Child-only cases are exempt from participation requirements (and the federal five-year time limit), so transferring them to a separate state program would not help a state raise its participation rate. Indeed, doing so would be counterproductive because it would reduce the amount of state funds available to establish separate state programs for TANF families with adults who are not likely to participate and whose removal from the TANF rolls would help raise its participation rate. (Our estimator, however, makes provision for additional separate state programs, and a state could choose to create one for child-only cases.)

S. XXX, like H.R. 4, would not alter the ability of states to use separate state programs. Unlike H.R. 4, however, separate state programs could not be used to generate a caseload reduction credit (because S. XXX does away with it). Nevertheless, a state could increase the value of its employment credit by shifting families that are unlikely to leave welfare for work to a separate state program, because S. XXX would replace the credit with an employment credit. This would increase the percentage of remaining families that are employable and likely to leave welfare for work, thereby raising the value of the employment credit. Moreover, the impact of this shift could be felt within one year, whereas a caseload reduction credit would only be triggered four or more years after its creation, because of the base year issue described above.

Work-Limited Recipients

H.R. 4 and S. XXX contain no exemptions for recipients who have physical, mental, or other work limitations, perhaps because its drafters feared that the states would use such exemptions to eviscerate participation requirements—as has happened in the past.²¹¹ Nevertheless, some substantial proportion of the national caseload has a disability or other physical or mental work limitation that might preclude participation in most countable activities. Other welfare families may face other barriers that make it difficult for them to participate, including those with a substance abuse problem, those with a learning disability or limited basic (reading or English-language) skills, those who are a victim of domestic violence, or those who have a disabled child.

Given the proposed 70 percent participation requirement for 2008, most states would surely want to exclude these recipients from the participation calculation. The easiest way to do so would be to place them in one or more separate state programs. As Gene Falk and Shannon

²¹¹For example, in 1971, the Work Incentive (WIN) program was amended to limit state discretion to exempt recipients from participation requirements because so few recipients were required to do so. See U.S. Congress, Senate, Committee on Labor and Human Resources and Committee on Finance, *Work and Welfare*, 100th Cong., 1st sess. (Washington, DC: U.S. Government Printing Office, 1987).

Harper of the Congressional Research Service observe:

One strategy for doing so would be to place the “hardest to serve” portion of the caseload, such as families with a disabled adult or disabled child, adults suffering from substance abuse, etc., into a separate state program since these might be the families at greatest risk for having an adult member fail to find a job on her own.²¹²

As described above, states may consider first providing these families with three months of specialized services, addressing their particular needs and counting such participation toward the participation requirements, and then transferring them to a separate state program until they can participate in one of either bill’s countable activities. (For example, a state may count participation in substance abuse and treatment for up to three months in a twenty-four-month period, but many recipients will need more.) Such families should be moved to a separate state program *only after that point* if a state needs to increase its participation rate.

Ultimately, deciding the percentage of families that could legitimately be exempted because of physical or mental health problems is a subjective judgment that surely varies by state. There are not reliable estimates, and some are quite high. For example:

- The General Accounting Office, using data from the Survey of Income and Program Participation (SIPP) for the 1997 to 1999 period, estimated that 44 percent of TANF recipients had at least one physical or mental health impairment or cared for a child with an impairment.²¹³
- Researchers at the Manpower Demonstration Research Corporation (MDRC), using data from four large urban areas, estimated that 34 percent of nonemployed TANF recipients had a physical problem that limited their work or the type of work they could perform.²¹⁴
- Researchers at the Urban Institute, using the National Survey of America’s Families (NSAF), reported that, in 1999, 17 percent of adult TANF recipients reported that their “health limits work” and another 28 percent said that they had “very poor mental

²¹²Gene Falk and Shannon Harper, *TANF Work Participation Requirement Proposed in Welfare Reauthorization Legislation* (Washington, DC: Congressional Research Service, May 7, 2003), p. 25.

²¹³U.S. General Accounting Office, *Welfare Reform: More Coordinated Federal Effort Could Help States and Localities Move TANF Recipients With Impairments Toward Employment* (Washington, DC: U.S. General Accounting Office, October 2001).

²¹⁴Denise Polit, Andrew London, and John Martinez, *The Health of Poor Urban Women: Findings from the Project on Devolution and Urban Change* (New York, NY: Manpower Demonstration Research Corporation, May 2001).

health” (for a total of 36 percent because of overlap).²¹⁵

- A study of mothers receiving welfare in California in 1992 reported that 11 percent were “unable to work due to a serious disability,” and that as many as 31 percent had a disability that limited their ability to work.²¹⁶

How high can such estimates go and still be defensible? Amy Johnson and Alicia Meckstroth, researchers at Mathematica Policy Research, Inc. (MPR), examined dozens of national and state studies reporting the incidence of various “barriers to employment” faced by welfare recipients.²¹⁷ Table A-9.1, which summarizes the estimates reported in their review, demonstrates that it is possible to label a very large proportion of a state’s welfare caseload as “work limited.”

Table A-9.1	
Welfare Recipients with “Barriers to Employment”	
Mathematica Policy Research	
Work Limitation	Estimated Range
Work-related disability	10%–31%
Substance abuse	5%–27%
Mental health	4%–39%
Learning disability, including low basic skills	25%–66%
Domestic violence (current victims)	15%–32%

Source: Amy Johnson and Alicia Meckstroth, *Ancillary Services to Support Welfare to Work* (Washington, DC: Mathematica Policy Research, Inc., June 22, 1998), available from: <http://aspe.hhs.gov/hsp/isp/ancillary/tbls.htm>, accessed April 17, 2003.

Based on six years of experience under TANF, however, we think that most states will take a more constrained view of work limitations. Most welfare agencies have exempted far smaller proportions of their caseloads without any apparent adverse effects. In New York City,

²¹⁵Sheila Zedlewski and Donald Alderson, *Do Families on Welfare in the Post-TANF Era Differ From their Pre-TANF Counterparts?* (Washington, DC: The Urban Institute, February 1, 2001), available from: <http://www.urban.org/UploadedPDF/discussion01-03.pdf>, accessed April 11, 2003.

²¹⁶Amy Johnson and Alicia Meckstroth, *Ancillary Services to Support Welfare to Work* (Washington, DC: Mathematica Policy Research, Inc., June 22, 1998), available from: <http://aspe.hhs.gov/hsp/isp/ancillary/front.htm>, accessed April 11, 2003.

²¹⁷Amy Johnson and Alicia Meckstroth, *Ancillary Services to Support Welfare to Work* (Washington, DC: Mathematica Policy Research, Inc., June 22, 1998), available from: <http://aspe.hhs.gov/hsp/isp/ancillary/tbls.htm>, accessed April 17, 2003.

for example, between November 1996 and April 1999, the percentage of TANF families with an adult who were excused from participation due to age, disability, or a temporary incapacity fell from about 16 percent of families to about 7 percent.²¹⁸ (By August 2002, the figure had risen to about 10 percent.) The agency accomplished this by obtaining third-party medical verifications for families claiming a disability or health problem and by assigning those with a health or physical problem to other appropriate activities.²¹⁹

Hence, although a state might be able to justify exempting a higher percentage of families, we conservatively estimate that, in most states, between 10 and 20 percent of the total adult caseload could be considered sufficiently “work limited” to be excused from participation requirements. For our calculations, we assume a mid-point estimate of 15 percent. We also assume that those placed in the separate state program would otherwise have a 0 percent participation rate, because, if they are participating, we do not expect the state to transfer them from TANF.

Adopting a separate state program for those with a work limitation would, on its own, increase the national participation rate by 16 percentage points, from 33 percent to 49 percent (which includes a 10 percentage point caseload reduction credit). Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 22 percentage points, from 50 percent to 72 percent (which includes a 10 percentage point caseload reduction credit). (Because the number of work-limited families and their participation rates vary from state to state, our estimator allows users to enter their own estimates of the percentage of the adult caseload considered for transfer to a separate state program for the work limited, their participation rate, and the percentage of already participating cases that would be transferred.)

The transfer of families with a work limitation to a separate state program has the potential for generating a caseload reduction credit, but the credit could be short lived. A shift involving a one-time and rapid caseload decline would provide a caseload reduction credit boost for only a single year. For example, if the transfer occurs at the end of 2004, a caseload reduction credit would be generated in 2007 (when the caseload reduction credit calculation would be based on the decline between 2004 and 2006). In 2008, however, the credit would not apply, because the caseload decline occurred by 2005 and there would have been no additional decline between 2005 and 2007 (the period used to determine the size of the credit in 2008). For our national composite caseload, we assume a state would create a separate state program in 2004, but not transfer a significant number of families to the program until 2006 or later, when doing so would help raise participation rates. This would also extend the period over which a

²¹⁸Authors’ calculations based on Douglas J. Besharov and Peter Germanis, “Work Experience in New York City,” unpublished draft, March 21, 2003, table A.7.

²¹⁹Douglas J. Besharov and Peter Germanis, “Work Experience in New York City,” unpublished draft, March 21, 2003.

caseload reduction credit could be generated, because it ensures that the policy is reflected in the base year of the calculation, but the actual caseload decline does not occur until several years later.

Under S. XXX, adopting a separate state program for those with a work limitation would, on its own, increase the national participation rate by 6 percentage points, from 36 percent to 42 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 14 percentage points, from 80 percent to 94 percent (both of which include a 20 percentage point employment credit). (Remember, there is no caseload reduction credit.)

Moreover, as described above,²²⁰ doing so could increase the value of the employment credit by removing cases from the welfare rolls that are least likely to leave for work. Of course, if the employment credit is at its maximum even without this shift, it would have no impact on the credit. (Our estimator allows users to enter their own estimates of the percentage and characteristics of the adult caseload transferred to a separate state program for the work limited.)

Additional Education

TANF restricts the degree to which education and training activities can be counted toward the required participation rate. TANF's limitations on countable education and training activities are as follows:

- “Job skills training directly related to employment,” “education related to employment,” and “secondary school or GED completion” do not count toward the first twenty hours of participation (out of thirty after 1999, except in the case of a teen head of household who is attending secondary school or the equivalent or participating in education directly related to employment).²²¹
- “Vocational educational training” beyond twelve months for any individual does not count toward TANF’s participation requirements.²²²
- Vocational educational training or teenage parents engaged in education cannot count

²²⁰See Appendix A-6.

²²¹U.S. Congress, House of Representatives, *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, H.R. 3734, 104th Cong., 2nd sess. (Washington, DC: U.S. Government Printing Office, 1996), sec. 407(c)(1)(A) and 407(c)(2)(C).

²²²U.S. Congress, House of Representatives, *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, H.R. 3734, 104th Cong., 2nd sess. (Washington, DC: U.S. Government Printing Office, 1996), sec. 407(d)(8).

for more than 30 percent of the individuals who are counted as “engaged in work” for the purpose of meeting TANF’s requirements.²²³

- Job search, which can have an educational component, can count for only six weeks, or twelve weeks in a state with high unemployment.²²⁴
- Some education and training activities, such as postsecondary education, are not countable at all, although many states apparently allow college coursework under their vocational education or job skills training programs.

As a result, relatively few TANF recipients are *reported* to be in education and training activities. In 2001, for example, states reported that only about 6 percent of adult welfare recipients were enrolled in TANF-related education programs (including vocational, job skills training, and education related to employment).²²⁵

TANF’s restrictions on education and training have been a matter of widespread criticism since its passage,²²⁶ and have been a major point of contention in the debate over TANF’s reauthorization. (Of course, welfare and other agencies in the community often provide education and training, supported by other funding streams, so this discussion is really only about such programs funded by TANF.)

Official data, however, undoubtedly understate current participation in education and training activities, because states have only a limited reason to report them because they are not

²²³U.S. Department of Health and Human Services, “Temporary Assistance for Needy Families: Final Rule,” *Federal Register* 64, no. 69, 45 CFR, parts 260-265, (April 12, 1999): 17887, available from: <http://www.acf.dhhs.gov/programs/ofa/tanfru4.htm>, accessed January 5, 2004.

²²⁴U.S. Congress, House of Representatives, *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, H.R. 3734, 104th Cong., 2nd sess. (Washington, DC: U.S. Government Printing Office, 1996), sec. 407(c)(2)(A).

²²⁵Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. III-106, III-110, and III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. The percentage participating would be just 4 percent if the calculation were limited to families that satisfied TANF’s participation requirements.

²²⁶See, for example, Jared Bernstein and Mark Greenberg, “Reforming Welfare Reform,” *The American Prospect*, vol. 12, issue 1, January 2001, available from: <http://www.prospect.org/print/V12/1/bernstein-j.html>, accessed January 21, 2002, stating:

At the very least, it should be up to each state to decide what role education and training will play in its welfare efforts. Federal law could go further and require states to explain how they will use block grant funds to expand access to education and training programs for low-income families and how they will effectively coordinate their welfare reform efforts with broader state strategies for work force development.

needed to meet participation requirements (and are often not countable, either). A survey conducted by the Center for Law and Social Policy (CLASP), for example, found that, in 2002, at least forty states provided postsecondary training or education and that at least twenty-three states allowed “more access than is countable toward federal work rates under current law, something that is possible only because of the caseload reduction credit.”²²⁷

Up to now, most states have provided these education and training activities under TANF, with only a few using separate state programs created for the purpose. The CRS reports that some states allow “participation in Adult Basic Education, literacy or English as a second language classes, parenting and life skills training and substance abuse or mental health treatment. At least half of the 54 TANF jurisdictions report some provision for recipients to engage in postsecondary education, although a number of these also require simultaneous participation in other work activities.”²²⁸

According to Dan Bloom and his colleagues at the Manpower Demonstration Research Corporation, as of September to December 2001, four states (Maine, New Mexico, Vermont, and Wyoming) had created separate state programs for recipients in postsecondary education.²²⁹ They explain: “These states have created separate state programs because the federal TANF regulations do not encourage the use of postsecondary education to satisfy the requirements for work-related activity.”²³⁰

Maine, for example, operates a separate state program, “Parents as Scholars,” that allows low-income families eligible for TANF to participate in a two- to four-year postsecondary education program and receive the same benefits they would have received under TANF (\$9,348 per year in TANF and food stamp benefits for a family of three in 2001).²³¹ Although the program does not pay for tuition,²³² except in limited situations, it does

²²⁷Center for Law and Social Policy, *Forty States Likely to Cut Access to Postsecondary Training or Education Under House-Passed Bill* (Washington, DC: Center for Law and Social Policy, June 19, 2002), p. 1, available from: http://www.clasp.org/DMS/Documents/1024591897.16/doc_Postsec_survey_061902.pdf, accessed May 12, 2003.

²²⁸Emilie Stoltzfus, Vee Burke, and Gene Falk, *Welfare Reform: State Programs of Temporary Assistance for Needy Families (TANF)* (Washington, DC: Congressional Research Service, September 28, 2000), p. 19.

²²⁹Dan Bloom, Mary Farrell, Barbara Fink, with Diana Adams-Ciardullo, *Welfare Time Limits: State Policies, Implementation, and Effects on Families* (New York, NY: Manpower Demonstration Research Corporation, July 2002), table A.5, pp. 113–115.

²³⁰Dan Bloom, Mary Farrell, Barbara Fink, with Diana Adams-Ciardullo, *Welfare Time Limits: State Policies, Implementation, and Effects on Families* (New York, NY: Manpower Demonstration Research Corporation, July 2002), p. 21.

²³¹Eligibility for the program is limited to those who (1) are eligible for TANF, (2) are enrolled in a two- or four-year post-secondary degree program, (3) do not already have a marketable bachelor’s degree, (4) do not have the skills to earn at least 85 percent of state’s median earnings, (5) will be able to improve their ability to support their

provide help with support services. This can include assistance with child care and transportation; up to \$500 per year for car repairs; up to \$300 per year for auto insurance; up to \$750 per year for books and supplies not covered by grants and scholarships; up to \$300 per year for work expenses and special clothing; up to \$500 per year for tools, licenses, and fees per year; Medicaid; and tuition assistance, for those who are ineligible for financial aid. Although the program is limited to 2,000 participants, actual enrollment is between 850 and 900 families. If these families were added back to the TANF rolls, they would represent about 10 percent of TANF families with an adult.

On balance, H.R. 4 is more restrictive in counting education activities than is current TANF. Like current TANF, it would count, for teen parents, either high school attendance or its equivalent, or participation in education directly related to employment for an average of twenty hours per week. But it would not consider vocational educational training as a core or direct work activity. Instead, it would allow a state to count virtually any educational activity—but only for three months in any twenty-four-month period.

S. XXX takes a more liberal view of education activities than does current TANF (and H.R. 4). Like current TANF, it would count vocational educational training as a direct work activity for twelve months,²³³ and, for teen parents, either satisfactory attendance at a secondary school (or equivalent) or participation in education directly related to employment for an average of at least twenty hours per week. Like H.R. 4, S. XXX would broaden what can count by allowing a state to count virtually any educational activity for three months in any twenty-four-month period. In addition, it would permit an additional three months of participation in each twenty-four-month period in two specific educational activities—adult literacy programs or activities and a program designed to increase proficiency in the English language. Perhaps most important, it would allow states to adopt the “Parents as Scholars” program (modeled on the Maine program of that name), which would allow them to count recipients participating in undergraduate postsecondary education and vocational educational training.²³⁴ (For recipients in a four-year undergraduate degree program, participation could be counted for up to six years.)

family by participating in the program, and (6) are determined to have the aptitude to complete the educational program chosen.

²³²Participants are supposed to apply for any and all available financial aid, including scholarships, grants, and loans.

²³³Like current TANF, S. XXX would limit the number of months of participation in vocational educational training that can be counted toward participation requirements to twelve months per individual and the total number of recipients (including teen parents in high school or work directly related to education) may not exceed 30 percent of all countable participants). These restrictions would not apply to recipients in the “Parents as Scholars” program or to recipients supplementing hours spent in direct work activities.

²³⁴The number of recipients who could be counted under this provision could not exceed 10 percent of the TANF caseload.

If these provisions of S. XXX became law, most states would probably use them to the extent that they would like to place recipients in education activities. If, however, H.R. 4 becomes law, we assume that many states will create separate state programs to accommodate educational activities. Although H.R. 4's three-month-activity rule would make it easier for states to provide education and training activities, many states might want countable credit for providing such services for longer periods of time. Moreover, H.R. 4's required participation requirements leave less room for noncountable activities. Unfortunately, we have only a limited basis for estimating the size and extent of such separate state programs.

If measured by the number of recipients who might qualify for postsecondary education, the number could be quite large. For example, Kenya L.C. Cox and William E. Spriggs, researchers at the National Urban League Institute for Opportunity and Equality, using data from the National Survey of America's Families, report that 23 percent of welfare recipients who were high school graduates were taking college courses in 1998.²³⁵ Since about half of all welfare recipients have twelve or more years of education,²³⁶ this suggests that about 10 percent may be in college or postsecondary education. (This estimate may be too high, because the 23 percent in college is not an average monthly figure, but counts anyone who attended in 1998.)

If measured by past state practices, however, relatively few recipients will be placed in such programs. For, despite the rhetoric, most current programs are relatively small—even though there were no significant barriers (except cost) to enrolling recipients in postsecondary programs under TANF. The few programs for postsecondary education that we have found generally involve no more than about 10 percent of the TANF adult caseload, and often much less.²³⁷

On this very limited basis, we conclude that, if H.R. 4 becomes law, only about half the states will create a separate state program for postsecondary education (including vocational educational training beyond the three-month limit), and that they will place only about 6

²³⁵Kenya L.C. Cox and William E. Spriggs, *Negative Effects of TANF on College Enrollment* (Washington, DC: National Urban League Institute for Opportunity and Equality, June 2002), figure 3, available from: <http://cgi.nul.org/tanf/>, accessed May 17, 2003.

²³⁶U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. X-225, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

²³⁷One study reports that, among the eleven states that permit higher education as a stand-alone activity, the number of participants ranged from less than 1 percent to 10 percent of the TANF caseload, with most at the lower end of this distribution. See Jim Mayfield, *Full-Time Higher Education Under TANF: Other States' Practices and Policy Options for Washington* (Olympia, WA: Washington State Institute for Public Policy, November 2001), p. 18, available from: <http://www.wsipp.wa.gov/hlthwelfare/pdf/FullTime%20Higher%20Education%20Under%20TANF.pdf>, accessed July 7, 2003.

percent of their total adult caseload in such a program. Our estimator makes provision for such separate state programs, but we decided against making a national estimate of the number of families that might be placed in them because we could not tell which states would establish such a program (besides those that already have one) and therefore could not estimate how many families might be involved. (Again, our estimator for H.R. 4 allows users to enter their own estimate of the percentage of the adult caseload considered for transfer to a separate state program for those in an education program, their participation rate, and the percentage of participating cases that would be transferred.)

As suggested above, under S. XXX, states would probably not need separate state programs for recipients in postsecondary education programs because the Parents as Scholars program would enable them to be counted as being in a direct work activity. But some recipients in postsecondary education might not meet all of the standards for the Parents as Scholars program, so there is a small chance that a state might decide to create a separate state program for them. (Our estimator allows users to enter their own estimates of the percentage and characteristics of the adult caseload transferred to a separate state program for those in an education program.)

In addition, the Parents as Scholars program is limited to postsecondary and vocational educational training. It does not include other educational activities, such as Adult Basic Education or English as a Second Language. Although states could count participation in these activities under the three-month-activity provision and, to a lesser extent, the additional three-month-activity provision, some may wish to create a separate state program for recipients who need more time (or to retain their ability to use both bills' three-month-activity provisions and S. XXX's additional three-month-activity provision for other activities, such as job search).

Hence, our estimator retains this provision. As with H.R. 4, we do not make a national estimate of the number of families that might be placed in such a separate state program, but we allow a state to enter its own estimate.

Time-Limited Recipients

TANF, of course, contains a five-year time limit on federal benefits. States are allowed to use federal funds to continue paying benefits to families that pass the time limit, but only for up to 20 percent of the current year's caseload, which actually could be as much as 30 percent of the cases subject to the time limit.²³⁸ Almost always, families are allowed to stay on welfare if terminating benefits would cause a "hardship," especially if the adult had "played by the rules" by looking for a job.

²³⁸The 20 percent calculation is based on a state's entire caseload, including child-only cases that are not subject to the time limit. In 2001, 37 percent of the caseload was composed of child-only cases, so a 20 percent exemption for the entire caseload would allow states to exempt about 32 percent of the caseload with an adult. Although exempt from the time limit, these families are not exempt from participation requirements.

States usually continue such families on TANF. But New York, in contemplation of wanting to keep more families on assistance after the time limit than the federally allowed 20 percent, created a separate state program for those hitting the time limit. And California transforms such cases into child-only cases. Given H.R. 4's tougher participation requirements, we expect more states to transfer their time-limited cases to a separate state program or, less likely for the reasons described below, to transform them into child-only cases.

The decision about whether to remove such families from the caseload subject to participation requirements depends, in large part, on their participation rate. At first glance, one would think that they would have a relatively low participation rate, because they have remained on welfare so long and may be difficult to reach and expensive to help. On the other hand, they could have a relatively high participation rate, perhaps because many of those who combine work and welfare (usually in states with relatively high benefits and generous earnings disregards) tend to stay on the welfare rolls. State participation patterns probably vary greatly, but the available data suggest that, nationally, the two factors are essentially in balance.²³⁹ Hence, for our national calculation, we assume that the participation rate of those reaching the time limit is the same as that for the rest of the caseload.

In most states, however, these considerations could be dwarfed by the impact that transferring such cases has on the state's caseload reduction credit (described next). This would be the main advantage of a separate state program over transforming time-limited cases into child-only cases (although child-only cases would continue to receive federal funding). Because this is an essentially costless and easily defended separate state program, barring a change in law or regulation, we expect most if not all states to create one.

For our national calculation, we assume that, each year, about 5 percent of the total adult caseload *could be transferred* to a separate state program (until a steady state is achieved in about five to ten years). We also assume that those who reach the time limit would have a participation rate about equal to that of the rest of the caseload. However, we think that states would not transfer those who are participating, because retaining them on the caseload would raise the participation rate more than the increase in the value of the caseload reduction credit

²³⁹Robert Moffitt of Johns Hopkins University and David Stevens of the University of Baltimore find that there has been little change in the characteristics of welfare recipients despite the large caseload declines: "An analysis of Current Population Survey (CPS) data, administrative data from the state of Maryland, and a review of other studies leads to the conclusion that, after netting out the effect of the economy, there is no strong evidence that welfare reform per se has been selective in who has left the rolls and who has stayed on with respect to labor market skill: there is no strong evidence that the welfare caseload is becoming less skilled." See Robert A. Moffitt and David Stevens, "Changing Caseloads: Macro Influences and Micro Composition," February 2001, available from: http://www.econ.jhu.edu/People/Moffitt/frbms2c_all.pdf, accessed July 7, 2003.

that might result from transferring them.²⁴⁰

The difference is relatively small when caseloads are flat. But during periods of caseload growth, our approach is more favorable to states because the participation rate is still increased even though the size of the caseload reduction credit is smaller or nonexistent.

Under H.R. 4, adopting a separate state program for those reaching a time limit who are not countable toward participation requirements would, on its own, increase the national participation rate by 10 percentage points, from 33 percent to 43 percent (which includes a 4 percentage point caseload reduction credit). Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 12 percentage points, from 72 percent (which includes a 10 percentage point caseload reduction credit) to 84 percent (which includes a 13 percentage point caseload reduction credit). (Because the number of families reaching a time limit and their participation rates vary from state to state, our estimator allows users to enter their own estimates of the percentage of the adult caseload considered for transfer to a separate state program for those reaching a time limit, their participation rate, and the percentage of participating cases that would be transferred.)

The transfer of families reaching a time limit to a separate state program has the potential for generating a caseload reduction credit over a number of years because the number of families that have hit the time limit would continue to grow until a steady state is reached, which may not be for five to ten years.

S. XXX would not continue the caseload reduction credit. Hence, under it, adopting a separate state program for those reaching a time limit and not countable toward participation requirements would, on its own, increase the national participation rate by 5 percentage points, from 36 percent to 41 percent. Combined with the adjustments and exclusions described above, this would raise the national participation rate an additional 8 percentage points, from 94 percent to 102 percent (both of which include a 20 percentage point employment credit). (Our estimator allows users to enter their own estimates of the percentage and characteristics of the adult caseload transferred to a separate state program for those reaching a time limit.)

As described above,²⁴¹ such shifting of time-limited cases could also increase the value of the employment credit by removing cases from the welfare rolls that are least likely to leave for work. Of course, if the employment credit is at its maximum even without this shift (which we assume for 2008), it would have no impact on the credit.

²⁴⁰On the one hand, keeping families that satisfy participation requirements on the rolls (while transferring those that do not) raises the participation rate. On the other hand, doing so results in a larger caseload, which, in turn, reduces the potential size of the caseload reduction credit.

²⁴¹See Appendix A-6.

Triggering a Caseload Reduction Credit

As described above, although the caseload reduction credit was meant to acknowledge state successes in reducing caseloads, because H.R. 4 would recalibrate the credit each year, it could also apply when a state merely transfers families from its TANF program to a separate state program (as long as the separate state program was in effect during the base year of the caseload reduction credit calculation).

Here is a simplified but telling example.²⁴² Like a number of states, New York State did not want to impose an absolute time limit on benefits. Apparently fearing that the 20 percent exemption would not be large enough to cover all those that remained on welfare after the five-year federal limit on benefits, New York State created a separate state program called “Safety Net Assistance” into which it transferred the families that reached the five-year time limit and did not qualify for an exemption.²⁴³

The result is striking. By assuming that H.R. 4’s recalibration of the caseload reduction credit had been in the original TANF, we can calculate the credit’s impact in New York over a three-year period (the time frame for calculating the caseload reduction credit once H.R. 4 is fully phased in). Between November 2001 and October 2003, the state’s TANF caseload declined by 67,081 cases (32 percent), from 207,863 to 140,782. About two-thirds of this decline, or 23 percent of the total decline, was due to the 48,638 cases that were transferred to the Safety Net Assistance program for those who reached the five-year time limit. Assuming the caseload remains flat through October 2004, this transfer of cases to the Safety Net Assistance program would generate an increase in the state’s caseload reduction credit of 23 percentage points.²⁴⁴

²⁴²This example simplifies the caseload reduction calculation by taking the caseload decline between two months rather than the decline in the average monthly caseload between two fiscal years. As explained below, by adopting the policy in November, near the beginning of the fiscal year, much of the benefit of the caseload reduction credit would disappear because most of the decline in New York State’s caseload occurred immediately, reducing the size of the caseload in the base year. Nevertheless, with careful timing the state could have achieved a similar decline between two fiscal years by adopting the separate state program in the last month of a fiscal year and beginning the transfer of families in the first month of the next fiscal year. This would essentially leave the size of the average monthly caseload unchanged for the base year and thus show the maximum decline over the measurement period for the caseload reduction credit.

²⁴³Families with an adult with a physical or mental impairment expected to last more than six months or who are caring for a child or other family member with such impairments may be exempted from the time limit. See Dan Bloom, Mary Farrell, Barbara Fink, with Diana Adams-Ciardullo, *Welfare Time Limits: State Policies, Implementation, and Effects on Families* (New York, NY: Manpower Demonstration Research Corporation, July 2002), p. 155.

²⁴⁴New York State, Office of Temporary and Disability Assistance, *Temporary and Disability Assistance Statistics: November 2001* (Albany, NY: New York State Office of Temporary and Disability Assistance, 2002), available from: <http://www.otda.state.ny.us/bdma/2001/stats1101.pdf>, accessed January 12, 2004, and New York State, Office of Temporary and Disability Assistance, *Temporary and Disability Assistance Statistics: October 2003*

Contrast this with California, which, as noted, transforms cases hitting the federal time limit into child-only cases. To pay for them, it uses state funds that are part of the TANF program but are segregated from federal TANF funds. As a result, its TANF caseload is not reduced and its caseload reduction credit does not increase.

The timing of an eligibility change and the speed at which it causes a caseload reduction would be important factors in determining the size and impact of the credit. The general rule is that, to trigger the caseload reduction credit, the eligibility change (here a separate state program) must have been in place during the relevant base year for the calculation of the credit. For example, because the 2007 caseload reduction is based on the decline from 2004 to 2006, the separate state program must have been in place in 2003 to have any decline it causes counted.

As we have seen, the nature of the cases transferred could also have a big impact on the size of the caseload reduction credit. A shift involving a one-time and rapid caseload decline would provide a caseload reduction credit boost for only one, single year. For example, a shift of 15 percent of the composite national adult caseload to a separate state program for, say, the disabled, would lower the total caseload by about 10 percent, where, all else being constant, it would remain. (As described above, transferring 15 percent of the adult caseload to a separate state program would reduce our composite national caseload by 10 percent because child-only cases comprise more than one-third of the total caseload and their number would be unaffected by the shift.) This would generate a one-time rise in the caseload reduction credit of up to 10 percentage points four years later, when the year of the policy change becomes the base year for calculating the credit.²⁴⁵

In contrast, if the separate program involved an ongoing shift of replenished cases, as with a program for those who reach the federal time limit, the result could be a steady decline in the TANF caseload for many years (until a steady state is reached). For example, suppose a state adopted a two-year time limit that reduced its total caseload by 5 percent per year. Once fully implemented, the caseload reductions caused by the time limit would effectively result in a caseload reduction credit of 13 percent, based on an annual decline of 5 percent over the three-year measurement period (again, assuming no other caseload changes). Of course, the process would eventually reach a steady state, as the number of cases transferred to the separate state program eventually equal the number of similar cases entering the TANF caseload.

Even with a one-time shift, timing could be crucial. For example, transferring families off welfare in 2004 could make it easier for a state to meet participation requirements in 2007

(Albany, NY: New York State Office of Temporary and Disability Assistance, 2003), available from: <http://www.otda.state.ny.us/bdma/2003/stats1003.pdf>, accessed January 12, 2004.

²⁴⁵This example assumes that the shift to a separate state program occurs in 2003 or later, once the caseload reduction credit is measured over a three-year period.

(because of the caseload reduction credit). However, if the transferred families had relatively high levels of participation, doing so would also make it more difficult for the state to meet the requirements in 2004, because the families remaining on assistance would have lower-than-average participation rates.

Timing within a particular year could also be important. Because the credit is based on the change in the average monthly caseload for the year, a shift at the beginning of the year would lower the caseload immediately and sharply reduce the base year caseload, reducing the potential impact of the caseload reduction credit. A shift at the end of the year, however, would have a relatively small impact on the average monthly caseload for the base year, and would thus maximize the caseload reduction credit. Of course, if other factors cause the caseload to rise, the timing becomes a moot issue.

* * *

To summarize the impact of separate state programs: In 2008, after these adjustments, the adjusted participation rate for H.R. 4 is estimated to be 84 percent (which includes a 13 percentage point caseload reduction credit). For S. XXX, it is 102 percent (which includes a 20 percentage point employment credit). As a result, they exceed the final required participation rate by 14 percentage points and 32 percentage points, respectively. This 18 percentage point difference is largely the result of S. XXX's proportional participation credit and its more generous three-month-activity provision, and the fact that the employment credit is more generous than the caseload reduction credit, assuming a flat caseload except for transfers to separate state programs.

A-10. Expanded Work and Work-Related Activities?

The calculations in this paper are based on four assumptions: that states will adopt all the steps we lay out in the proper sequence and timing, that the provisions of H.R. 4 and S. XXX will not be narrowed in the subsequent legislative or regulatory process, that welfare caseloads will not rise appreciably, and that HHS data about participation are reasonably accurate.

Based on our analysis, if all states were to take the steps described above, six states would not meet H.R. 4's participation requirements: Georgia, Maryland, Massachusetts, Nebraska, Pennsylvania, and Vermont. All states would meet S. XXX's participation requirements. But, as described above, the uncertainties involved would probably lead other states to seek to raise their participation rates.

How would states try to do so? And what steps, if any, would they take to prepare for the potential gap? Although many states might be in sympathy with both bills' increased participation requirements, based on past experience, they will most likely look for ways to minimize both programmatic changes and additional expenses.

A state could decide to accede to the relevant federal penalty, of course, as some have done under TANF. (Both bills maintain TANF's existing penalties for states that do not meet the participation requirements.) But we think that most states would try to avoid the penalty, unless it was small and did not involve political embarrassment.

Another possibility would be simply to expand further their separate state programs beyond the proportions described above. Doing so, of course, would be the easiest and least expensive approach, but, as explained above, most states will be reluctant to appear to be so blatantly emasculating welfare reform. Thus, we think most states will, at least initially, limit their separate state programs to the politically defensible ones described above.

Before expanding their separate state programs further, therefore, we think the states will look to see if it is not too expensive and not too administratively or politically difficult to expand the number of recipients in countable activities. That, in turn, will depend on the size of the gap and the apparent ease or difficulty states will have in filling it.

Without wanting to make too much of the point, we would first note that raising participation rates might be much easier than widely assumed. In estimating participation levels, we counted only the recipients who met TANF's minimum hourly participation requirements

in 2001. We did not count any of the substantial number who did not have enough hours of participation. In 2001, about 223,000 adult recipients (17 percent of the adult caseload) participated in a TANF activity to some degree, although not for enough hours to be counted.²⁴⁶ (They were distributed across activities in roughly the same proportions as countable participants.)

This would be a potential group for easy expansion, because many recipients might need only a few more hours of activity per week to become countable participants. Maryland, for example, does not impose a minimum hourly participation requirement. Millspaugh notes, “We do not currently have a state mandated minimum hourly requirement for TANF participants. Therefore, many local departments allow clients to continue to receive benefits if they are participating 5 or 10 hours a week.”²⁴⁷ As a result, in 2001, the state reported that 1,106 families had sufficient hours to satisfy TANF’s participation requirements; nearly twice that number (1,811 families) were participating in an activity, but not for enough hours of participation to count.²⁴⁸ This would be a potential group for easy expansion, because many of the participants may need only a few more hours of activity per week to become countable participants.

If just half of these recipients were then countable against participation requirements, under both bills the base participation rate would increase 8 percentage points (from 33 percent to 41 percent under H.R. 4 and from 36 percent to 44 percent under S. XXX).

Assuming that states would still have to increase the number in activities, what activities would the states be most likely to expand? The best answer is probably found in the activities that higher-participation-rate states have used under TANF. Presumably, what these states are

²⁴⁶As described in the main text, the CBO appears to have counted at least some of these recipients because it assumed that anyone who “participates in a state-reported activity for at least 1 hour during the three-month period could meet a 40-hour requirement at no additional cost.” See Sheila Dacey and Donna Wong, “Estimate of the Potential Costs to States of Meeting the Work Participation Requirements of H.R. 4, as passed by the House of Representatives, February 2003,” memorandum to interested parties, May 8, 2003. As explained in the main text, the CBO does not actually expect states to try to meet the participation requirements, but rather, “expects states would instead partially or fully avoid these costs by moving families to separate state programs or averting the requirements by some other means.” Nevertheless, it prepared cost estimates for both bills’ participation requirements to determine what the potential cost would be “if states chose to meet the new requirements by funding more activities for recipients such as work experience, training, and job search programs.” Thus, the assumptions it lays out do not represent what it considers to be the most likely scenario of what will happen.

²⁴⁷Mark Millspaugh, program analyst, Maryland Family Investment Administration, e-mail message to Peter Germanis, May 15, 2003.

²⁴⁸Authors’ calculation based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-110 and III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

now doing is a good indication of what the other states would do. As the following discussion reveals, under TANF, just four activities—unsubsidized employment, job search, vocational educational training, and work experience—account for nearly 90 percent of the countable participation under current TANF. Moreover, low-participation-rate states tend not to have a large proportion of their caseloads in these activities, but high-participation states (see figure 2). Hence, we think the expansions will be mainly among these activities.²⁴⁹

²⁴⁹The following discussion makes no distinction between H.R. 4 and S. XXX activities because they are essentially the same, except that, as table A-10.1 portrays, some H.R. 4 activities would be countable for shorter periods of time.

Table A-10.1

Countable Direct Work Activities

— H.R. 4 and S. XXX —

Activity	Current TANF ^a	H.R. 4 ^b	S. XXX ^c
Unsubsidized employment	yes	yes	yes
Subsidized private sector employment	yes	yes	yes
Subsidized public sector employment	yes	yes	yes
Work experience	yes	yes (if supervised)	yes
On-the-job training	yes	yes	yes
Job search and job readiness assistance	yes, but only for 6 weeks per yr; 12 weeks if state unemployment rate is 50% > national or food stamp caseload is 10% > preceding 3 months	yes, but only for 3 months out of 24	yes, but only for 6 weeks per yr; 12 weeks if state unemployment rate is 50% > national or TANF caseload is 5% > & food stamp caseload is 15% > preceding 2 yrs. Indirect, but only for 3 months out of 24
Community service programs	yes	yes (if supervised)	yes
Vocational education training	yes, but only for < 12 months	indirect (if addresses TANF purpose, but only for 3 months out of 24)	yes, but only if < 12 months; or ≤ 10% of TANF caseload (including post-secondary)
The provision of child care services to an individual participating in community service	yes	indirect (if considered unsubsidized work or community service)	yes
Education for teen parents	yes	yes	yes
Work activities authorized under a waiver in effect on August 22, 1996	yes	indirect (if addresses TANF purpose, but only for 3 months out of 24)	indirect (if barrier removal or qualified rehabilitative activity, but only for 3–6 months out of 24)

Activity	Current TANF ^a	H.R. 4 ^b	S. XXX ^c
Parents as Scholars program for postsecondary and vocational educational training	no	indirect (if addresses TANF purpose, but only for 3 months out of 24)	yes
Parents caring for a disabled child or adult dependent	indirect (if community service)	indirect (if community service)	yes

Notes:

“Indirect” means the activity is not specifically identified by the authorizing statute, but is one that could be counted under either bill pursuant to another provision. For example, under H.R. 4, as an activity that addresses a TANF purpose, or under S. XXX, as an activity that is designed to remove a barrier to work or provide a qualified rehabilitative activity.

^a Under current TANF, the first twenty hours of participation must be in a set of nine core activities. Teen parents who maintain satisfactory attendance at a secondary school or equivalent or participate in education directly related to employment for an average of twenty hours per week are also considered to have satisfied the participation requirements.

^b Under H.R. 4, a recipient must participate at least twenty-four hours per week in one of six direct work activities or for three months in a twenty-four-month period in one of five qualified activities. Teen parents who maintain satisfactory attendance at secondary school or equivalent or participate in education directly related to employment for twenty hours per week are considered to have satisfied the participation requirements.

^c Under S. XXX, a recipient must participate at least twenty-four hours per week in one of nine direct work activities, the Parents as Scholars program, or for three months in a twenty-four-month period in one of five qualified activities and an additional three months in one of three qualified activities. (Two-parent families would have to participate at least thirty-four hours in a direct work activity, or fifty hours if the family receives subsidized child care and has no disabled member.) Teen parents who maintain satisfactory attendance at secondary school or participate in education directly related to employment for twenty hours per week are considered to have satisfied the participation requirements. Single parents who care for a disabled child or other dependent may be considered to have satisfied the participation requirements.

Unsubsidized Employment

In most states, the predominant work or work-related activity under TANF has been “unsubsidized employment”; that is, employment with a public or private employer not supported by TANF or other public funds in which the worker receives compensation for services performed. (Although TANF calls this “unsubsidized employment,” this is clearly a misnomer because the families can take advantage of earnings disregards to combine work and welfare to continue to receive welfare payments, which can be a substantial portion of their original grants. Hence, we sometimes call it “combining work and welfare.”)

In 2001, states reported that about 18 percent of all TANF families with an adult were in unsubsidized employment and had enough hours of participation in that or other activities to be counted as participating,²⁵⁰ and another 9 percent did not have enough hours to be counted.²⁵¹ By far the largest category of recipients in a work activity, they accounted for about 60 percent of all adults in a countable activity.²⁵²

Support for allowing recipients to combine work and welfare seems strong, and the states understand how their earnings disregards create incentives for doing so. Hence, it might seem that this would be the first place states would look to expand participation. Mark Greenberg and his colleagues at CLASP, however, argue that states may be reluctant to adopt this approach:

Note that states could also respond to these requirements by altering their program eligibility rules so that low-income working families become more likely to qualify for and receive TANF assistance. However, we were hesitant to assume that states would actively seek to increase the number of families receiving assistance. Note that if states were to do so, they would incur the costs of cash assistance, case management, administration, and supportive services for such families.²⁵³

²⁵⁰This is the national average, however. In five states, more than 30 percent would be counted as participants and in eight states more than 25 percent would be.

²⁵¹Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

²⁵²The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁵³Mark Greenberg, Elise Richer, Jennifer Mezey, Steve Savner, and Rachel Schumacher, *At What Price? A Cost Analysis for the Administration’s Temporary Assistance for Needy Families (TANF) Work Participation Proposal* (Washington, DC: Center for Law and Social Policy, April 15, 2002), p. 18, available from: http://www.clasp.org/DMS/Documents/1023208530.14/At_What_Price_analysis.pdf, accessed March 5, 2003.

Their analysis seems misdirected for four reasons. First, the correct comparison is not between the costs and burdens of administering a program of unsubsidized employment for those on welfare versus families simply being off welfare. Rather, it should be between unsubsidized employment versus other forms of direct work activities. In that comparison, of course, unsubsidized employment looks quite attractive. When recipients are combining welfare with a private sector job, there is no need to find or supervise sites nor to monitor recipient attendance—both necessary for most other forms of participation.

Second, their analysis ignores the vast disparities among states in the percentage of adult recipients participating for sufficient hours to be counted that were in unsubsidized employment: From a low of 4 percent reported in Georgia to a high of 38 percent reported in Indiana. The difference is largely a function of the size and structure of the state's earnings disregard. Georgia, for example, retained the old AFDC earnings disregard, which generally reduces welfare benefits dollar for dollar after the first \$90 in earnings.²⁵⁴ In contrast, Indiana allowed families to retain their full grant with earnings up to the poverty line.²⁵⁵

Third, some states have not refined their earnings disregard as much as they might to maximize its work incentive and minimize its welfare dependency-inducing quality. In the quotation above, it is possible that Greenberg and his colleagues were thinking of the well-known fact that most earnings disregards cause caseloads to grow, as recipients who might otherwise leave welfare for a job instead decide to stay on welfare which becomes, in effect, an income subsidy to a job (which may be part time). But this effect can be reduced.

Charles Michalopoulos and Gordon Berlin of the Manpower Demonstration Research Corporation (MDRC) explain, for example, that states could restructure earnings disregards to reduce their impact on welfare costs and caseloads by limiting them to those who work full time and targeting the least-employable groups.²⁵⁶ They observe, for example, that Canada's Self-Sufficiency Project (SSP), which limited earnings supplements to full-time workers, was more "efficient" than the Minnesota Family Investment Program (MFIP), which included a more traditional earnings disregard expansion, because the SSP increased both earnings and cash transfers, whereas MFIP actually reduced earnings somewhat. They explain: "This is a

²⁵⁴For the first four months of employment, recipients are allowed to retain the first \$120 plus one-third of remaining earnings, and for the next eight months they can keep the first \$120 in earnings. After one year, this amount is reduced to \$90.

²⁵⁵Erik Beecroft, Kevin Cahill, and Barbara D. Goodson, *The Impacts of Welfare Reform on Children: The Indiana Welfare Reform Evaluation* (Bethesda, MD: Abt Associates Inc., June 2002), available from: http://www.acf.dhhs.gov/programs/opre/indiana_welfare/indiana_welfare_reform_eval.pdf, accessed July 23, 2003.

²⁵⁶Charles Michalopoulos and Gordon Berlin, "Financial Work Incentives for Low-Wage Workers: Encouraging Work, Reducing Poverty, and Benefiting Families," in *The Incentives of Government Programs and the Well-Being of Families*, ed. Bruce Meyer and Greg Duncan (Evanston/Chicago, IL: Joint Center for Poverty Research, 2001).

common problem with enhanced earnings disregards: they encourage some parents to work, but allow others to cut back their work effort but still enjoy the financial benefits of the earnings supplement.”²⁵⁷ Because the SSP was limited to full-time workers, it restricted the amount participants could cut back on employment and remain eligible for the supplement.

Fourth, some states could increase the proportion of their caseload combining work and welfare by counting families receiving work-related TANF “nonassistance” payments. For example, many states use TANF dollars to fund a state earned income tax credit (outside the TANF program) as an alternative to expanding earnings disregards. Although calling such payments “assistance” would increase the TANF caseload, the growth in the number of participating families would be even larger.

Some states, however, may not be able to expand their earnings disregards easily. Some states have such low benefit levels that they cannot increase their earnings disregard in a way that increases participation without spending considerably more on welfare and substantially increasing the welfare rolls. For example, in 2001, if the six states with the lowest TANF benefits expanded their earnings disregard to 50 percent (the approximate level for states with higher benefits),²⁵⁸ a mother with two children working at the minimum wage would lose her eligibility for assistance before working the minimum number of hours needed to count as a direct work participant under H.R. 4. Consider Alabama, with its monthly grant of \$164. If the state expanded its earnings disregard to 50 percent, a mother working at the minimum wage would lose her eligibility by working just sixteen hours per week.

Of course, if the earnings disregards are raised high enough, even states with relatively low benefits may be able to increase the number of countable participants. For example, in Virginia, recipients can earn up to the poverty level without having their TANF benefits reduced. This level of generosity is not uncommon. In January 2000, twenty-two states allowed TANF families to earn over the poverty level (for a family of three) and remain eligible for assistance, although ten of these states limited the higher earnings disregard to less than seven months.²⁵⁹

Such policies undoubtedly increase the number of countable participants by raising the

²⁵⁷Charles Michalopoulos and Gordon Berlin, “Financial Work Incentives for Low-Wage Workers: Encouraging Work, Reducing Poverty, and Benefiting Families,” in *The Incentives of Government Programs and the Well-Being of Families*, ed. Bruce Meyer and Greg Duncan (Evanston/Chicago, IL: Joint Center for Poverty Research, 2001).

²⁵⁸With a 50 percent earnings disregards, TANF benefits would be reduced by fifty cents for each dollar earned.

²⁵⁹Authors’ calculations based on Center on Law and Social Policy and Center on Budget and Policy Priorities, *Earnings Eligibility Limits: Single-Parent Family of Three (As of January 2000)*, available from: <http://www.spdp.org/tanf/financial/earnlmt2000.PDF>, access January 12, 2004.

number who combine work and welfare, but they also increased the state's welfare caseload and costs. Hence, some states may simply not want to have large numbers of recipients combining work and welfare. In Maryland, for example, where just 5 percent of adult recipients participating for sufficient hours to be counted were in unsubsidized employment, state officials have not significantly expanded earnings disregards because their goal is to move families off welfare. Instead, they provide support to the working poor through state tax credits. As Mark Millspaugh explains, state officials believe that "welfare should not be used as an employment subsidy. Rather, [the] state EITC is better for this since it is not time limited and has proven to be a better poverty reduction program. We work to move families off of welfare and into work, not keep them on welfare so that we can count them toward our rate."²⁶⁰

Work Experience

"Work experience" is TANF's name for what the public usually calls "workfare"; that is, work or some other work-related activity performed as a condition of receiving welfare. Some people see workfare as a way of paying the community back for assistance, others see it as a way for individuals with little previous employment experience to gain basic skills, and still others see it as performing both functions.

In 2001, states reported that only about 3 percent of all TANF families with an adult were in work experience and had enough hours of participation in that or other activities to be counted as participating,²⁶¹ and another 1 percent did not have enough hours to be counted. They represented about 9 percent of all TANF adults in a countable activity.²⁶²

But there is considerable room to expand such activities, as reflected by differences in current patterns among the states. In 2001, only five states reported more than 10 percent of TANF families with an adult participating in a work experience activity for enough hours in that or another activity to be counted, but in some states, the reported percentage was quite high: New Jersey (14 percent), Ohio (20 percent), Wyoming (30 percent), Montana (34 percent), and Wisconsin (38 percent).²⁶³

²⁶⁰Mark Millspaugh, program analyst, Maryland Family Investment Administration, e-mail message to Peter Germanis, July 23, 2003.

²⁶¹This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁶²The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁶³Authors' calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed

Nevertheless, we do not expect many states to expand their work experience programs under either bill.²⁶⁴ For, despite the political rhetoric surrounding TANF, these small numbers should not be a surprise. Work experience has never been a favorite of state officials because it is expensive,²⁶⁵ difficult to manage, and is usually fiercely opposed by unions who fear that the work slots “displace” regular workers. As Thomas Brock and his MDRC colleagues write: “On the whole, the experience of the 1960s and 1970s led to two conclusions: First, that when there was a choice of implementing work-related services and actual work requirements, services usually took precedence; and second, where work requirements were attempted, they generally proved difficult to implement.”²⁶⁶ Moreover, some states may not be able to assign recipients to the requisite number of hours because of the FLSA problem, as described above.²⁶⁷

That is why we expect unsubsidized work and community service to be the major ways that states seek to raise participation rates under either H.R. 4 or S. XXX.

Community Service

“Community service” has traditionally meant an unpaid activity in which the participant provides a service to the community at large. However, as discussed above,²⁶⁸ the definition of community service has been broadened by practice under TANF, which has broadened the concept to include care for one’s disabled family members and, probably, various “self-improvement” activities, such as education, training, counseling, or other activities.²⁶⁹

March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁶⁴Although H.R. 4 would add a requirement that work experience be “supervised,” it does not define the term, so we do not believe that it would significantly narrow the potential scope of work experience activities.

²⁶⁵The CBO estimates that a full-time work experience slot, including child care, costs \$6,900 per year. [Sheila Dacey, U.S. Congress, Congressional Budget Office, conversation with Peter Germanis, January 27, 2003.]

²⁶⁶See, for example, Thomas Brock, David Butler, and David Long, *Unpaid Work Experience for Welfare Recipients: Findings and Lessons from MDRC Research* (New York: Manpower Demonstration Research Corporation, 1993), pp. 8–9.

²⁶⁷See Appendix A-1.

²⁶⁸See Appendix A-2.

²⁶⁹See Appendix A-2. See, for example, Northwest Justice Project, *Questions and Answers about Workfirst* (Seattle, WA: Northwest Justice Project, 2003), available from: <http://www.nwjustice.org/docs/7126.html>, accessed April 8, 2003, in which an advocacy group in the state of Washington states: “Community service is unpaid work for a non-profit or government organization or volunteer work that benefits a person’s community or family. Some examples are: a recipient caring for a disabled family member, a grandparent caring for a grandchild or a recipient participating in drug or alcohol treatment.”

As a result, community service can be either work for welfare (also called “work experience” or “workfare”) or a nonwork (or volunteer-like) activity without the attributes of an actual job. This dual definition has caused substantial confusion in the debate over TANF’s reauthorization because one side speaks of increasing community service and means nonwork activities such as caring for a sick child, while the other side interprets the phrase to mean workfare.

In any event, under TANF’s undifferentiated definition, in 2001, states reported that 2 percent of all TANF families with an adult were in community service and had enough hours of participation in that or other activities to be counted as participating,²⁷⁰ and another 1 percent did not have enough hours to be counted. Those in community service accounted for about 6 percent of all TANF adults in a countable activity.²⁷¹

How much room for expansion is there? In 2001, only three states reported more than 5 percent of their TANF families with an adult participating in a community service activity for enough hours in that or another activity to be counted: Kentucky (6 percent), South Dakota (24 percent) and Washington (25 percent).²⁷²

The high level of participation in community service in South Dakota and Washington is probably due to their broad definitions of what counts as community service. For example, among other activities, Washington includes caring for a disabled family member and participation in substance abuse assessment or treatment, family violence counseling, and a “pregnancy to employment pathway” program, among other activities.²⁷³

Hence, the number of families placed in community service activities could easily grow

²⁷⁰This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5. And, for H.R. 4, it also does not include the 5 percent of TANF families with an adult participating in community service because they are caring for a disabled child or other dependent.

²⁷¹The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁷²Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These percentages do not include the 5 percent of TANF families with an adult we count as participating in community service because they are caring for a disabled child or other dependent. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a community service activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁷³See Appendix A-2.

substantially under H.R. 4's pressure to raise participation rates—especially given the relative breadth of activities that might fall under the term. (Although H.R. 4 would add a requirement that community service be “supervised,” it does not define the term. Hence, for the reasons described above,²⁷⁴ we do not believe that it would significantly narrow the potential scope of community service activities.)

Such activities could easily be seen as “busy work” that does not raise the employability of recipients, so one hopes that the activities do more to build skills. Earlier, we discussed the possibility that a legislative change or HHS regulation might narrow the kinds of activities that might fall under community service.²⁷⁵ For present purposes, we merely note that too loose a definition of community service could be perceived as undermining welfare reform—and could remove the incentive for recipients to leave welfare for real work.

Subsidized Employment

“Subsidized employment” is employment with a public or private sector employer in which the participant's wages are subsidized by government funds (TANF or other). Compared to *unsubsidized* employment, relatively few TANF recipients have been put in this activity.

In 2001, states reported that less than 1 percent of all TANF families with an adult were in private or public subsidized employment, including both those who had enough hours of participation in that or other activities to be counted as participating, as well as those who did not have enough hours to be counted.²⁷⁶ They represented about 1 percent of all TANF adults in a countable activity.²⁷⁷

Moreover, in no state was this a widely used activity. In 2001, only four states reported more than 1 percent of TANF families with an adult participating in a subsidized private or public employment activity for enough hours in that or another activity to be counted: Alabama (2 percent), Colorado (2 percent), Oregon (2 percent) and Washington (5 percent).²⁷⁸ Hence, we

²⁷⁴See Appendix A-2.

²⁷⁵See Appendix A-2.

²⁷⁶This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁷⁷The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁷⁸Authors' calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed

do not expect much of an expansion of subsidized employment.

On-the-Job Training

“On-the-job training” (OJT) generally denotes training provided by an employer in which the participant receives a wage and the employer is reimbursed for the cost of training. Despite its theoretical attractions, on-the-job training has proven to be the one of the least widely used activity under TANF.

In 2001, states reported that less than 1 percent of all TANF families with an adult were in on-the-job training, including both those who had enough hours of participation in that or other activities to be counted as participating,²⁷⁹ as well as those who did not have enough hours to be counted. They represented about 0.2 percent of all TANF adults in a countable activity.²⁸⁰ In fact, no state seems to consider this a major welfare reform activity. In 2001, only two states reported more than 1 percent of TANF families with an adult participating in an on-the-job training activity for enough hours in that or another activity to be counted: Wyoming (1 percent) and South Dakota (2 percent).²⁸¹

Given this experience and the other options available to states, it seems unlikely that they would expand on-the-job training to any measurable degree.

Education for Teen Heads of Household

“Education for teen heads of household” is for single teen heads of household or, under S. XXX, married teens who are either maintaining satisfactory attendance at a secondary school or equivalent or participating in education directly related to employment for an average of twenty hours per week. Under both H.R. 4 and S. XXX, this would satisfy participation

March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a subsidized employment activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁷⁹This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁸⁰The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in an on-the-job training activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁸¹Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

requirements. (Although S. XXX includes married teens, very few would probably fall under this provision, so we ignore them in our estimates.)

In 2001, states reported that about 6 percent of all TANF families with an adult were headed by teens (about 83,000 teens) who could potentially take advantage of this provision.²⁸² But only about 1 percent of all TANF families with an adult were teen mothers in an educational activity and had enough hours of participation in that or other activities to be counted as participating,²⁸³ and another 1 percent did not have enough hours to be counted. Only two states reported more than 5 percent of TANF families with an adult participating in an educational activity for teen parents for enough hours in that or another activity to be counted: Minnesota (6 percent) and Wisconsin (15 percent).²⁸⁴

We doubt that Minnesota and Wisconsin are the only states with a large number of teen mothers in school, so we assume that at least some states are simply not reporting the data. Hence, it seems reasonable to expect at least some increased participation in this category (real or reported).

Job Search and Job Readiness Activities

As discussed above,²⁸⁵ we expect a major increase in job search under either bill.

Vocational Educational Training

“Vocational education training” is formal occupational skills training, rather than generalized academic instruction, designed to help individuals develop specific job or career skills. The training is generally provided in either a classroom or workplace setting and can

²⁸²Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-210, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed December 24, 2003.

²⁸³This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁸⁴Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), pp. III-118–119, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of teen parents in an educational activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁸⁵See Appendix A-8.

include college, community college, technical, vocational, or other course work leading to a degree, certificate, or license.

In 2001, states reported that about 3 percent of all TANF families with an adult were in vocational educational training and had enough hours of participation in that or other activities to be counted as participating,²⁸⁶ and another 1 percent did not have enough hours to be counted.²⁸⁷ They represented about 11 percent of all adults in a countable activity.²⁸⁸ Once again, these percentages may understate the amount of actual participation in vocational educational training because, under current TANF, states can report a recipient's participation only for twelve months.

S. XXX would allow states to count up to twelve months of vocational educational training for any individual. The number of recipients in vocational educational training counted toward a state's participation requirements, however, could not exceed 10 percent of the state's TANF caseload.²⁸⁹ H.R. 4, however, would only allow states to count these activities under the three-month-activity rule or toward the remaining sixteen-hour per week requirement (after the twenty-four-hour requirement is met), but it does not have the 10 percent limitation.

In 2001, three states reported more than 10 percent of TANF families with an adult participating in a vocational educational training activity for enough hours in that or another activity to be counted: Illinois (10 percent), Ohio (11 percent), and Idaho (17 percent).²⁹⁰ Hence, it is possible that there will be a somewhat limited expansion of vocational educational training under either bill.

²⁸⁶This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a work experience activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

²⁸⁷Under TANF, vocational educational training could not be counted for a recipient for more than twelve months.

²⁸⁸The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁸⁹Under current TANF, vocational educational training can account for no more than 30 percent of a state's countable participants.

²⁹⁰Authors' calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a job search activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

Providing Child Care for TANF Recipients in Community Service

“Providing child care for TANF recipients in community service” is a direct work activity under current TANF and would continue to be one under S. XXX. Although H.R. 4 does not list it as a direct work activity, it could be counted as “unsubsidized employment” if recipients are paid for providing the child care; and it could be counted as “work experience” if they are not paid but perform this service in exchange for their welfare grant.

“Providing child care for TANF recipients in community service” has been the least used of TANF’s activities, because the number of TANF recipients in community service has been small and because most TANF recipients use other child care providers. In 2001, states reported that only 143 TANF families with an adult in eight states (and two territories) were providing child care for TANF recipients in community service, including both those who had enough hours of participation in that or other activities to be counted as participating, as well as those who did not have enough hours to be counted.²⁹¹

“Parents as Scholars”

“Parents as Scholars,” directly authorized only by S. XXX, allows TANF recipients to participate in postsecondary education and vocational education programs. Unlike other education activities authorized under H.R. 4’s and S. XXX’s three-month-activity rules, the program would permit full-time participation for as long as the recipient made satisfactory progress and was on schedule to complete the coursework within the normal time frame for full-time students. (In some cases, however, this could be for up to six years.) As described above, we assume that only about half the states will create a separate state program for postsecondary education and that they will place only about 6 percent of their total adult caseload in such a program. Although we do not include an estimate of the number of adult recipients in postsecondary education for our composite national caseload, our estimator allows state officials or others to enter their own estimate of the number of recipients that might be placed in them.

Parents Caring for a Disabled Child or Adult Dependent

“Parents caring for a disabled child or adult dependent” counts parents caring for a disabled child or adult dependent as full participants. Before TANF, such parents were exempt from participation. Under TANF, however, some states started counting such recipients as participants (usually as a community service). Although we do not have data on the number of

²⁹¹ Authors’ calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003.

parents who could be counted, research indicates that about 5 to 10 percent of the adult caseload is providing such care and under S. XXX would be considered countable participants. Hence, for our calculation, we have assumed that all states will claim about 5 percent of their caseloads as being in this activity. (We include this estimate in our base participation rate.)

Additional Waiver Activities

As explained above, TANF allows some states to continue activities authorized under a waiver in effect on August 22, 1996. Many of these waivers allow states to operate their programs in ways that may be inconsistent with TANF's other provisions. In some states, these waivers allow the counting of participation in otherwise noncountable activities, such as substance abuse treatment and various education-related activities. In addition, the waivers may modify the scope of existing activities or the total hourly requirements. For example, some states have waivers that allow them to count job search beyond the annual maximum of six weeks.

In 2001, states reported that about 2 percent of all TANF families with an adult were classified as being in an "additional waiver activity" and had enough hours of participation in that or other activities to be counted as participating,²⁹² and another 1 percent did not have enough hours to be counted. Those in an additional waiver activity accounted for about 7 percent of all TANF adults in a countable activity.²⁹³

Apparently, however, not all such waiver activities are classified in the additional waiver activity category. We are informed that some number are embedded in the other activity categories. (For example, some may be recipients participating in job search for more than six weeks because of a state waiver extending the duration of job search.) Thus, the additional waiver activity count is likely to understate the percentage of adult recipients who are counted due to a waiver. Unfortunately, HHS data do not allow us to estimate the undercount of waiver activities, but their maximum effect would be 4.5 percentage points because the 2001 participation rate with waivers is 4.5 percentage points higher than without them, 34.0 percent vs. 29.9 percent.²⁹⁴ (Some part of this differential, however, is likely due to waivers that affect other aspects of the participation rate calculation, such as exemptions affecting the number of

²⁹²This figure does not necessarily match the figure we use in our estimator because it represents the total number of recipients in a waiver activity without adjusting for potential overlap with other activities (which we do for the estimator).

²⁹³The sum of adults in individual activities may total more than 100 percent because some recipients participate in more than one activity.

²⁹⁴U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-102, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed January 5, 2004.

adults required to participate.)

In 2001, only four states reported more than 10 percent of TANF families with an adult participating in an additional waiver activity for enough hours in that or another activity to be counted: Oregon (67 percent), Kansas (41 percent), Montana (26 percent), and Tennessee (16 percent).²⁹⁵ Only fourteen states reported anyone in an additional waiver activity.

Earlier we discussed the possibility that these waivers might be continued in the final reauthorization. For present purposes, we simply note that, if the waivers are continued, some states may increase the activities under them.

²⁹⁵ Authors' calculations based on U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research, and Evaluation, *Temporary Assistance for Needy Families (TANF) Program: Fifth Annual Report to Congress* (Washington, DC: U.S. Department of Health and Human Services, February 2003), p. III-118, available from: <http://www.acf.dhhs.gov/programs/ofa/annualreport5/>, accessed March 15, 2003. These estimates do not necessarily match the figures we use in our estimator because they represent the total number of recipients in a waiver activity without adjusting for potential overlap with other activities (which we do for the estimator), as described in Appendix A-5.

A-11. Participation Rate Estimator

– Composite National Caseload H.R. 4 and S. XXX –

1. Obtain count of “work-eligible” caseload. Start with the total number of TANF cases (that is, cases with an adult and child-only cases) for 2004. [For our national estimate, we use the caseload as it stood in 2001 (in numbers and characteristics) because it is the latest year with sufficiently detailed national data. Individual states may have data for 2002 or 2003.]

- Estimate the caseload in future years (include effects of an increase in diversion activities and grants, but exclude effects of the other policy changes described below). [For our national estimate, we first assume a flat caseload during the entire period; subsequent calculations assume caseload increases of 10 percent, 25 percent, and 50 percent.]
- Estimate the number of child-only cases in future years. For H.R. 4, subtract child-only cases (not created as a result of a work-related sanction) from each year’s estimated total caseload, which leaves the TANF cases that are subject to participation requirements. For S. XXX, subtract all child-only cases from each year’s estimated total caseload, which leaves the TANF cases that are subject to participation requirements. [For our national estimate, we assume no change in the number of child-only cases.]

2. Calculate base participation rate. Estimate the number of adult recipients satisfying participation requirements in future years. Count all adult recipients who participated in a direct work activity for sufficient hours to meet TANF’s minimum hourly participation requirements. Under S. XXX, the number counted as participating in job search is limited to the estimated maximum number of adult recipients that can be in a six-week job search activity at any one time.²⁹⁶ In addition, at state option, add all or some of those who are caring for a disabled child or adult dependent and who could fall under S. XXX’s provision on the subject or a broadly

²⁹⁶This means estimating the percentage of adult recipients in the six-week job search period (converted by the estimator to the number of adult recipients in the six-week period), determining the percentage in the period that could reasonably be placed in a job search activity, and subtracting the number of adult recipients in an activity (other than job search) already counted toward the participation rate in the six-week period. If the first-month exclusion was exercised, the six-week job search period would be the fifth through the tenth week of assistance. If the first-month exclusion was not exercised, the six-week job search period would be the first six weeks of assistance. [For our national estimate, for those not otherwise participating, we assume 100 percent of adult recipients could reasonably be placed in a job search activity.] (At user option, alter the assumptions about the potential duration of job search, and thus the percentage of adult recipients in the designated period, and the percentage of adult recipients in the six-week, or alternative, period that could reasonably be placed in a job search activity.)

defined community service program under H.R. 4. [For our national estimate, we assume that this would be about 5 percent of TANF adults under both bills.]

Also, count all adult recipients who participated in activities not considered direct work activities but who would count under the three-month-activity rule, subject to the estimated maximum number of adult recipients that can be in a three-month activity at any one time.²⁹⁷ [For our national estimate, we use data from 2001 (the most recent available) and assume no change in the number of participants during the entire period.] For S. XXX, apply the proportional participation credit. [For our national estimate, we assume that all adult recipients counted toward S. XXX's participation requirements would meet the criteria for maximum extra credit and would be counted as a "1.08 family."] (At user option, alter the assumption about the proportional participation credit.)

- Under H.R. 4, the base participation rate is estimated to be 33 percent.
- Under S. XXX, the base participation rate is estimated to be 36 percent (3 percentage points higher than under H.R. 4) because of the proportional participation credit.

Then determine whether participation requirements are met.

3. Apply participation rate credits. For H.R. 4, these are the caseload reduction credit and the superachiever credit. For S. XXX, it is the employment credit.

- For H.R. 4, estimate the caseload reduction credit in future years. [For our national estimate, we assume that the caseload is flat between 2004 and 2008 and thus do not apply the caseload reduction credit.]²⁹⁸
- For H.R. 4, also apply the superachiever credit. [For our national estimate, we do not apply the superachiever credit because it applies to fewer than twenty states.]
- For S. XXX, estimate employment credit in future years. [For our national estimate, we

²⁹⁷This means estimating the percentage of adult recipients in the designated three-month periods (converted by the estimator to the number of adult recipients in the designated three-month periods), determining the percentage in each of these periods that could reasonably be placed in a countable activity, and subtracting the number in a direct work activity already counted toward the participation rate in each of the three-month periods. [For our national estimate, we assume that 10 percent, 3.5 percent, and 6.5 percent of the adult caseload is in the first, second, and third three-month period, respectively, and that a state could find and place 100 percent of adult recipients not otherwise participating during each of the designated three month-periods. In practice, this may be difficult for the second and third three-month periods, but we use this percentage to establish a maximum.] (At user option, alter the assumptions about the percentage of adult recipients in various three-month periods and the percentage in each three-month period that could reasonably be placed in a countable activity.)

²⁹⁸The caseload reduction credit will also be applied at later points in this estimator, to capture the effect of possible caseload declines from full-family sanctions and transfers to separate state programs.

assume the employment credit is 20 percentage points in every year.]

Then determine whether participation requirements are met.

4. Apply full-family sanction. Estimate the number of families that would become subject to a full-family sanction in future years.

Apply the estimated impact of a full-family sanction (including estimates of the percent of families that are terminated, transferred to a separate state program, and begin complying with program requirements) to each year's caseload. [For our national estimate, we assume no change in the number of families with a sanction.]

- For H.R. 4, we assume that 75 percent of families with a sanction are terminated or are transferred to a separate state program and that 25 percent begin complying with program requirements. Some states may not want to impose a full-family sanction, but our estimate does not reflect this possibility because of the lack of data and the probability that most states will. (At user option, alter the assumptions about the number of full-family sanction cases and the percentage of families that are terminated, the percentage transferred to a separate state program or transformed to a child-only case to avoid the requirement, or the percentage that begins complying if a full-family sanction is applied.) The estimator automatically reapplies the caseload reduction and superachiever credits.
- For S. XXX, we assume no change in the number of families with a sanction and that no state changes its current sanction policy. With S. XXX's heightened participation requirements, however, some states may want to impose a full-family sanction. (At user option, alter the assumptions about the number of full-family sanction cases and the percentage of families that are terminated, the percentage transferred to a separate state program or transformed to a child-only case to avoid the requirement, or the percentage that begins complying if a full-family sanction is applied.) The estimator automatically reapplies the proportional participation and employment credits.

Then determine whether participation requirements are met.

5. Apply post-sanction exclusion. Estimate the number of families with a partial sanction that could be excluded from the participation rate calculation. This means determining the number of partial sanctions resulting from noncompliance with participation requirements and excluding those with such sanctions that have not been in effect for more than three months in the preceding twelve-month period. For S. XXX, apply the partial-sanction exclusion. [For our national estimate, we assume no change in the number of families.] (At user option, alter the assumption about the number of families with a partial sanction that could be excluded from the participation rate estimate.) For S. XXX, the estimator automatically reapplies the proportional participation and employment credits.

6. Apply first-month exclusion. Estimate the number of families in their first month of assistance and their participation rate in future years. Apply first-month exclusion and exclude adult recipients not participating from the participation rate calculation. [For our national estimate, we assume that the participation rate of families in the first month of assistance is 50 percent of the total caseload. Our estimate assumes no change in the number of first-month families or their participation rate during the entire period.] (At user option, alter the assumptions about the number of families in the first month of assistance and their participation rate.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

7. Apply child-under-one exclusion. Estimate the number of families with a child under age one and their participation rate in future years. Apply the child-under-one exclusion and exclude adult recipients not participating from the participation rate calculation. [For our national estimate, we assume that the participation rate of families with a child under age one is 50 percent of the rest of the caseload (after the application of the full-family sanction). Our estimate assumes no change in the number of families with a child under age one during the entire period.] (At user option, alter the assumptions about the number of families with a child under age one and their participation rate.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

8. Establish mandatory job search program at application. For H.R. 4, this would be under the rubric of the three-month-activity rule. For S. XXX, this would be under the rubric of (1) job search as a direct work activity for six weeks and (2) job search as a three-month activity, if *combined* with other activities to avoid triggering the six-week per year limitation on job search. Our estimator calculates the effect of each of these provisions separately.

- For H.R. 4's job search as a three-month activity, this means estimating the percentage of adult recipients in the first three-month period (converted by the estimator to the number of adult recipients in the first three-month period),²⁹⁹ determining the percentage that could reasonably be placed in a job search activity, and subtracting (1) the number of adult recipients in a direct work activity already counted toward the participation rate in the first three-month period, (2) the number of adult recipients in job search already counted toward the base participation rate under the three-month-activity provision, and (3) half of the number of adult recipients remaining in an activity not considered a direct work activity already counted toward the base

²⁹⁹If the first-month exclusion was exercised, the three-month period would be the second through fourth months of assistance. If the first-month exclusion was not exercised, the three-month period would be the first three months of assistance.

participation rate under the three-month-activity provision (because the other half was in subsequent three-month periods), subject to the estimated maximum number of adult recipients that can be in a three-month activity during the first three-month period.³⁰⁰ [For our national estimate, for those not otherwise participating, we assume 100 percent of adult recipients could reasonably be placed in a job search activity.] (At user option, alter the assumptions about the percentage of adult recipients in the first three-month period, the percentage that could reasonably be placed in a countable activity, and the percentage in an activity not considered a direct work activity in the first three-month period.) The estimator automatically reapplies the caseload reduction and superachiever credits. Then determine whether participation requirements are met.

- For S. XXX's six-week job search activity, this means estimating the percentage of adult recipients in the six-week job search period (converted by the estimator to the number of adult recipients in the six-week period),³⁰¹ determining the percentage in the period that could reasonably be placed in a job search activity, and subtracting the number of adults recipients in an activity (other than job search) already counted toward the participation rate in the six-week period and all adults in job search counted in the base participation rate. (If the number of adults in job search in the base participation rate exceeds the maximum number in a six-week period, we assume the excess job search participants are counted under the three-month-activity rule below.) [For our national estimate, for those not otherwise participating, we assume 100 percent of adult recipients could reasonably be placed in a job search activity.] (At user option, alter the assumptions about the potential duration of job search, and thus the percentage of adult recipients in the designated period, and the percentage that could reasonably be placed in a job search activity.) The estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.
- For S. XXX's job search as a three-month activity, this means estimating the percentage of adult recipients in the first three-month period (converted by the estimator to the

³⁰⁰This means estimating the percentage of adult recipients in the first three-month period (converted by the estimator to the number of adult recipients in the first three-month period), determining the percentage that could reasonably be placed in a countable activity, and subtracting the number of adult recipients in a direct work activity already counted toward the participation rate in the first three-month period. (At user option, alter the assumptions about the percentage of adult recipients in the first three-month period and the percentage that could reasonably be placed in a countable activity.)

³⁰¹If the first-month exclusion was exercised, the six-week job search period would be the fifth through the tenth week of assistance. If the first-month exclusion was not exercised, the six-week job search period would be the first six weeks of assistance.

number of adult recipients in the first three-month period),³⁰² determining the percentage that could reasonably be placed in a job search activity, and subtracting (1) the number of adult recipients in a direct work activity already counted toward the participation rate in the first three-month period, (2) the number of adult recipients in job search in excess of the number in the six-week job search period (if any) already counted toward the base participation rate under the three-month-activity provision, and (3) half of the number of adult recipients remaining in an activity not considered a direct work activity (because the other half was in a subsequent three-month period) already counted toward the base participation rate under the three-month-activity provision, subject to the estimated maximum number of adult recipients that can be in a three-month activity during the first three-month period.³⁰³ [For our national estimate, for those not otherwise participating, we assume 100 percent of adult recipients could reasonably be placed in a job search activity.] (At user option, alter the assumptions about the percentage of adult recipients in the first three-month period, the percentage that could reasonably be placed in a job search activity, and the percentage in an activity not considered a direct work activity in the first three-month period.) The estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

9. Apply three-month-activity rule in subsequent three-month periods. Estimate the number of families that might be placed in three-month activities in the second and third three-month periods. This means using the existing estimates of the percentage of adult recipients in the second and third three-month periods (converted by the estimator to the number of adult recipients in the second and third three-month periods) and the percentage in each of these periods that could reasonably be placed in a countable activity. Using the resulting estimate of the potential number of adult recipients that can participate in a three-month activity, subtract (1) the number of adult recipients in a direct work activity already counted toward the participation rate, (2) the number of adult recipients in job search already counted toward the base participation rate under the three-month-activity provision, and (3) half of the number of adult recipients in an activity not considered a direct work activity or job search (because the other half was in the first three-month period). (At user option, alter the assumptions about the percentage of adult recipients in various three-month periods, the percentage in each three-month period that could reasonably be placed in a countable activity,

³⁰²If the first-month exclusion was exercised, the three-month period would follow the six-week job search period and would be the eleventh through the twenty-second week of assistance. If the first-month exclusion was not exercised, the three-month period would be the seventh through the eighteenth week of assistance.

³⁰³This means estimating the percentage of adult recipients in the first three-month period (converted by the estimator to the number of adult recipients in the first three-month period), determining the percentage that could reasonably be placed in a countable activity, and subtracting the number of adult recipients in a direct work activity already counted toward the participation rate in the first three-month period. (At user option, alter the assumptions about the percentage of adult recipients in the first three-month period and the percentage that could reasonably be placed in a countable activity.)

and the distribution of adults in activities not considered direct work activities in the second and third three-month periods.) [For our national estimate, for those not otherwise participating, we assume 100 percent participation during each of the designated three-month periods.] For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

10. Establish a separate state program for recipients who are work limited. Estimate the number of families with an adult that would not receive TANF assistance in future years due to the shift to the separate state program for the work limited. [For our national estimate, we assume reductions in the adult caseload of 0 percent in 2004, 15 percent in 2007, and 15 percent in 2008. We also assume that these families would otherwise have a 0 percent participation rate because, if they were participating and could be counted, the state would not have transferred them from TANF.] (At user option, alter the assumptions about the percentage of the adult caseload considered for transfer to the separate state program, their participation rate, and the percent of already participating cases that would be transferred.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. (At user option, alter the assumptions about the percentage of the caseload considered for transfer in 2004 and 2007 to control the additional caseload reduction credit generated for 2008 by the separate state program. A checkbox allows the user to indicate whether the separate state program is active in 2004 and thus could generate another caseload reduction credit for 2008.) For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

11. Establish a separate state program for recipients who are in education programs. Estimate the number of families with an adult that would not receive TANF assistance in future years due to the shift to the separate state program for those in education programs. [For our national estimate, we do not make an estimate of the number of families that might be placed in such programs. If any were placed in a program, we assume that they would otherwise have a 0 percent participation rate because, if they were participating and could be counted, we would not expect the state to transfer them from TANF.] (At user option, alter the assumptions about the percentage of the adult caseload considered for transfer to the separate state program, their participation rate, and the percent of already participating cases that would be transferred.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. (At user option, alter the assumptions about the percentage of the caseload considered for transfer in 2004 and 2007 to control the additional caseload reduction credit generated for 2008 by the separate state program. A checkbox allows the user to indicate whether the separate state program is active in 2004 and thus could generate another caseload reduction credit for 2008.) For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

12. Establish a separate state program for other state-designated groups. (Our estimator allows the user either to rename an existing separate state program or to combine several

separate state programs into a single entry.) Estimate the number of families with an adult that would not receive TANF assistance in future years due to the shift to the separate state program and their participation rate. (At user option, alter the assumptions about the percentage of the adult caseload considered for transfer to the separate state program, their participation rate, and the percent of already participating cases that would be transferred.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. (At user option, alter the assumptions about the percentage of the caseload considered for transfer in 2004 and 2007 to control the additional caseload reduction credit generated for 2008 by the separate state program. A checkbox allows the user to indicate whether the separate state program is active in 2004 and thus could generate another caseload reduction credit for 2008.) For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

13. Establish a separate state program for recipients who reach a time limit on assistance.

Estimate the number of families with an adult that would not receive TANF assistance in future years due to the shift to a separate state program for time-limited recipients because they both hit the time limit and are not countable toward participation requirements. [For our national estimate, we assume transfers to the separate state program of 0 percent in 2004, 14 percent in 2007, and 19 percent in 2008. We also assume that those who reach the time limit would have a participation rate about equal to that of the rest of the caseload and that states would not transfer those who are participating, because retaining them on the caseload would raise the participation rate more than the increase in the value of the caseload reduction credit that might result from transferring them.] (At user option, alter the assumptions about the percentage of the adult caseload considered for transfer to the separate state program, their participation rate, and the percent of already participating cases that would be transferred.) For H.R. 4, the estimator automatically reapplies the caseload reduction and superachiever credits. (At user option, alter the assumptions about the percentage of the caseload considered for transfer in 2004 and 2007 to control the additional caseload reduction credit generated for 2008 by the separate state program. A checkbox allows the user to indicate whether the separate state program is active in 2004 and thus could generate another caseload reduction credit for 2008.) For S. XXX, the estimator automatically reapplies the proportional participation and employment credits. Then determine whether participation requirements are met.

14. Expand number of recipients in direct work activities. Enter the increase in the number of adults participating in a direct work activity for sufficient hours to meet H.R. 4 or S. XXX's participation requirements. [For our national estimate, we have not assumed an increase in direct work activities because most states do not need to place more recipients in direct work activities to satisfy the participation requirements.] (At user option, increase the number of recipients in a direct work activity by changing the initial count of recipients in direct work activities. The estimator then automatically recalculates the participation rate by applying all of the subsequent provisions.) Then determine whether participation requirements are met.