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FAX MESSAGE COVER SHEET

CENTER ON BUDGET AND POLICY PRIORITIES
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To:	Melanne Verveer
FAX NUMBER:	456-6244
FROM:	Bob Greenstein
REGARDING:	Rescissions and Child Nutrition Block Grants
DATE:	February 28, 1995
NUMBER OF PAGES:	11, including this cover sheet.

Comments:

Enclosed please find:

- 2-page press release regarding impacts of rescission package,
- 2-page press release regarding child nutrition and infant formula,
- 1-page box on block grants cutting child nutrition programs, and
- 6-page summary of child nutrition block grant analysis.

CENTER ON BUDGET AND POLICY PRIORITIES

FOR IMMEDIATE RELEASE:
Monday, February 27, 1995

CONTACT: Nancy Coffey
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63 PERCENT OF NEW RESCISSION PACKAGE HITS PROGRAMS FOR THE POOR

Programs for low-income people will bear 63 percent of the cuts approved by House appropriations subcommittees last week even though such programs account for only 12 percent of federal non-entitlement funding, according to an analysis by the Center on Budget and Policy Priorities.

Last week, the appropriations subcommittees voted to rescind — or cancel — $17.1 billion in appropriations. The Center said that $10.8 billion of this amount involves rescissions in programs targeted on low-income households. Low-income elderly people and low-income children would be the groups most heavily affected, the analysis reported.

The Center found these rescissions would hit low-income discretionary programs 12 times as hard as other discretionary programs. Nearly one of every six dollars appropriated for low-income discretionary programs for fiscal year 1995 — 15.4 percent — would be rescinded as a result of the subcommittee actions. By contrast, just 1.3 percent of fiscal year 1995 funding for the rest of the discretionary budget would be rescinded.

"Former budget director David Stockman used to say budget cuts should hit programs that represent a weak claim on federal dollars," Center director Robert Greenstein said. "These rescissions stand that advice on its head. By aiming most of the cuts at programs serving poor elderly people and children, they largely target weak claimants rather than weak claims."

"The rescissions would barely nick the billions in federal subsidies for various industries and corporate interests, despite the questionable value of many of those subsidy programs," he added.

When the modest amount of rescissions contained in the defense supplemental appropriations bill that the full House approved last week are added in, the story remains essentially the same, the Center noted. Rescissions in low-income programs account for 57 percent of all of the rescissions in both pieces of legislation, the analysis said.

"I can't recall any collection of budget cuts from a prior Administration or Congress that was aimed so heavily at the poor," Greenstein observed, "and particularly at poor people who are either young or old."

"Together with the additional large reductions in low-income assistance moving through other House Committees," he added, "these changes would make many of the poor

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poorer while also making it more difficult for them to gain skills and work experience to work their way out of poverty."

If these cuts are used to finance capital gains tax reductions and other tax breaks primarily benefitting high-income households, the analysis also noted, income and resources will be redistributed from low-income Americans to the wealthy at a time when the gap between rich and poor is already greater than at any time since the end of World War II.

Low-Income Elderly Affected Most Harshly

According to the analysis, the low-income elderly appear to be the single group hit hardest by the rescissions. While the elderly poor account for one-tenth of all people below the poverty line, they make up more than one-third of those receiving low-income housing and energy assistance, the Center said. Three-fourths of all of the rescissions in low-income programs approved by the House subcommittees last week are in the low-income housing and energy assistance programs.

These rescissions would terminate the low-income energy assistance program after this year while sharply reducing funding for low-income housing. The proportion of the poor that rely on these programs to help pay rent and high winter heating bills is greater among the elderly poor than among any other low-income group, the Center said. The Department of Housing and Urban Development estimates that more than 500,000 low-income elderly households would be affected by the housing rescissions.

Poor children also would be sharply affected, according to the analysis. It said that five of every six dollars rescinded in low-income programs, other than the rescissions in the low-income housing and energy assistance programs, would come from programs for either young children or youth. In addition, families with children — along with the elderly — constitute the two groups that account for most of the beneficiaries of low-income housing and energy aid. For example, more than half of all those receiving energy assistance are low-income families with children.

The rescissions would cut particularly deeply into employment and job training programs designed to help low-income youth gain work experience and skills. One such program, the summer jobs program, would be terminated; it provides jobs and, in many cases, classroom instruction to more than 600,000 low-income youth during summer months. Total fiscal year 1995 funding for employment and training programs for low-income individuals would be slashed 42 percent, the Center said.

Also affected would be homeless individuals. Some 22 percent of all fiscal year 1995 funding for programs serving the homeless would be canceled or made unavailable until fiscal year 1996, the Center said.

The Center on Budget and Policy Priorities conducts research and analysis on a range of government policies and programs, with an emphasis on those affecting low- and middle-income people and on federal and state fiscal policies. It is supported primarily by foundation grants.

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CENTER ON BUDGET AND POLICY PRIORITIES

FOR IMMEDIATE RELEASE
Thursday, February 23, 1995

CONTACT: Nancy Coffey
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CHILD NUTRITION VOTE WILL REWARD INFANT FORMULA COMPANIES AT EXPENSE OF POOR WOMEN AND CHILDREN

Action by the House Economic and Educational Opportunities Committee today is likely to result in increased profits for the nation's largest infant formula companies while causing the removal of low-income pregnant women and young children from a highly successful nutrition program that reduces infant mortality and child anemia, the Center on Budget and Policy Priorities said today.

In working on its proposal to merge the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) into a block grant, the Committee's Republican majority voted today to repeal federal cost containment requirements requiring states to use competitive bidding to purchase infant formula for WIC, the Center said. These federally required competitive bidding procedures produced more than $1 billion in savings in fiscal year 1994, according to data collected from states by the U. S. Department of Agriculture. These savings were used to serve more women and children without increasing program costs.

"The only winners from this unfortunate action are the big infant formula companies," Center director Robert Greenstein said. "The losers are poor children, more of whom are likely to be born with disabilities or suffer from anemia, and taxpayers who will get less efficient use of their tax dollars."

USDA data show that more than 1.5 million women, infants, and children are served in WIC each month with these savings, the Center reported. More than one of every five participants in WIC is served with savings from these cost containment systems. If these systems weaken, women and children will have to be removed from the program, Greenstein noted.

Rep. Dale Kildee this morning offered an amendment to retain these requirements, but it was rejected on a largely party line vote (Rep. Marge Roukema voted for the amendment). The competitive bidding requirements were enacted on a bipartisan basis in 1989 with support from the Bush Administration.

The 1989 law requires states to use competitive bidding to purchase infant formula for WIC. States typically secure price reductions of 60 percent to 80 percent off the manufacturer's wholesale price as a result, Greenstein said.

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Under the new block grant structure, cost containment systems would likely weaken in some states, he noted. In a number of states, the three largest infant formula manufacturers — which control nearly 90 percent of the domestic infant formula market — have substantial clout with state medical associations and state health departments. Prior to passage of the 1989 federal law, fewer than half the states had instituted competitive bidding, he said.

"In many states, the major infant formula companies successfully fought the use of competitive bidding before the federal government required its use in 1989," Greenstein commented.

"The federal law has been a stunning success, enabling taxpayers' dollars to be stretched further to serve more women and children and avert more infant deaths, child disabilities, and anemia," he added.

"Repealing these requirements will likely lead to the erosion of cost containment measures in some states." he warned. "The result would be fatter infant formula company profits and fewer pregnant women and infants served in what is probably the single most effective social program known."

"This is a triumph of the ideology that everything should be left up to states over the most basic concerns of child health and fiscal prudence," Greenstein added. "Not all states can stand up to the infant formula giants the way the federal government has on a bipartisan basis.

"Weakening of cost containment measures will mean a less efficient, less effective program that gives taxpayers less return for their dollars but helps the infant formula companies improve their balance sheets," he said.

Greenstein noted that studies have repeatedly found that WIC reduces infant mortality and low birthweight and strongly link WIC with reductions in child anemia. In a 1992 review of the research literature on WIC, the GAO estimated that each dollar spent on the prenatal component of WIC saves approximately $3.50, much of that in Medicaid. The principal savings result from sharp reductions in the number of low birthweight infants needing costly intensive care, he said.

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DO THE BLOCK GRANTS CUT CHILD NUTRITION PROGRAMS?

Those attempting to assess the child nutrition block grants approved February 23 by the House Economic and Educational Opportunities Committee are encountering contradictory claims. Some defenders of the block grants say the legislation does not cut child nutrition programs and, in fact, increases them 4.5 percent per year. Only bureaucracy would be sliced, they contend. Some critics contend the block grants would cut the child nutrition programs $7 billion over the next five years. Who is correct?

- The Congressional Budget Office (CBO) estimates that the child nutrition block grants would result in cuts in child nutrition programs of $5 billion over the next five years, using the new CBO baseline the House Republican majority approved in January 1995. Using the traditional CBO baseline, the reduction is $7 billion over five years.

- These figures do not include savings in federal administrative costs and bureaucracy. Any such savings would remain at the federal level; none of those savings would be available to states, schools, or local WIC programs to help cushion the impact of the funding reductions caused by the block grants. Furthermore, the Congressional Budget Office estimates the federal administrative savings resulting from the block grants would be small, amounting to only about 1.5 percent of the total cuts from the proposal.

- The claim made by some that under the block grants funding for child nutrition programs would rise next year is not correct. Federal funding for these programs is $11.6 billion in fiscal year 1995, according to CBO. It would drop to $11.3 billion in fiscal year 1996 under the block grants *if* the block grants were fully funded. Thus, even if food price inflation and rising school enrollments are ignored, there would be a funding decrease.

  The claim that funding would rise next year is based on a comparison of the fiscal year 1995 funding level and the fiscal year 1996 block grant level just for the school food programs. Fiscal year 1996 block grant funding for the school food programs would be about $150 million higher than school food funding in fiscal year 1995. But FY 1996 block grant funding would be nearly $200 million *lower* than what the school food programs would receive under current law; this is because current law funding automatically keeps pace with food price inflation and rising enrollments while the block grant funding would not. Based on CBO data, school nutrition block grant funding would be $2.3 billion less over the next five years than schools would receive under current law.

- Higher food prices and larger school enrollments are realities that schools must deal with. To live within the funding levels provided under the block grant, many school food programs would have to eliminate some meal services (such as school breakfasts), raise the prices students pay for meals, reduce meal portions, or take other actions to cut costs.

- The funding reductions would be steepest in child nutrition programs operated outside schools. Under the family nutrition block grant, the maximum amount of funding available in fiscal year 1996 for the child care food program and the summer food program for children would be over 45 percent less than the amount these programs would receive under current law. Fees that many parents pay for child care would likely rise as a result.

- Some in the House leadership now describe the child nutrition bill as containing no cuts. They are unlikely to continue presenting the bill as containing no budget cuts when they begin to work on their tax bill this spring. At that time, the House leadership is expected to use the CBO estimates that these block grants entail several billion dollars in spending cuts and make use of these child nutrition budget reductions to help pay for tax cuts they favor.

CENTER ON BUDGET AND POLICY PRIORITIES

Revised February 26, 1995

THE CHILD NUTRITION BLOCK GRANTS DEVELOPED BY THE ECONOMIC AND EDUCATIONAL OPPORTUNITIES COMMITTEE

Summary

The Republican majority of the House Economic and Educational Opportunities Committee voted February 23 to end the school lunch and other child nutrition programs — along with the Supplemental Nutrition Program for Women, Infants, and Children (WIC) — and replace them with two block grants. One block grant would cover child nutrition programs operated in schools. The other, called the family nutrition block grant, would cover all remaining child nutrition programs and WIC.

The two block grants would make substantial cuts in these programs.

- Using the standard Congressional Budget Office baseline, child nutrition and WIC programs would be cut $860 million in fiscal year 1996 and $7 billion over five years. Using an alternative baseline favored by the House Republican majority which does not adjust discretionary programs for inflation, the cut is $750 million next year and $5 billion over five years. The cuts in the school nutrition programs would be $2.3 billion over five years regardless of which baseline is used.

- The cuts in those programs are deeper than the cuts would have been under the Personal Responsibility Act (PRA), which is part of the Contract with America. Under the PRA, the cuts in these programs would have been about $400 million smaller over the next five years.

- The cuts would be deepest in the program that provides food assistance to children in child care institutions and in the summer food program, which continues the school lunch program in poor areas during summer months. These two programs (except for the portion of the programs operated in schools) would be cut more than 45 percent in fiscal year 1996 and by still-larger amounts in succeeding years.

- Moreover, the reductions in child nutrition programs could prove considerably larger than this. States would be permitted to transfer 20 percent of block grant funds to other block grants. Another new block grant approved by the Committee — the child care block grant — would be heavily underfunded. It would cut federal child care assistance $1.2 billion to $1.7 billion over the next five years, or 10 percent to 15 percent, depending on which baseline is used. Furthermore, no new federal child care funds would be available to cover the large numbers of additional children placed in child care as a result of welfare reform that requires

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hundreds of thousands of mothers currently on welfare to work. Many states would likely be driven to transfer funds to the child care block grant from other block grants, potentially including the nutrition block grants, to help defray the substantial child care costs they will bear as welfare reform is implemented.

The proposed block grants loss of entitlement status for School Food Programs would end the entitlement status of the school lunch and breakfast programs, the Child and Adult Care Food Program, and the Summer Food Program. States would get a fixed amount of money for the year, which would not rise if the number of poor children in a state increased. If a recession cast hundreds of thousands more children into poverty and rendered them unable to pay for school meals, no additional federal funds would be provided. During the last recession, the number of low-income children receiving free school lunches jumped by 1.2 million.

Thus, during recessions, states and school districts with rising unemployment could be forced to choose between denying free meals to newly poor children, cutting back on food portions served to children, curtailing school breakfast programs, cutting back on other education services so poor children can eat, and raising taxes or cutting other programs to secure more resources in the middle of a recession.

Similarly, the proposal provides no additional federal funds if the number of low-income children placed in child care settings rises, thereby increasing the number of children who must be fed in child care institutions. The number of children in child care settings is expected to continue climbing in coming years as more mothers enter the labor force and especially as welfare reform requires substantial numbers of AFDC mothers to work.

By failing to provide funding to cover the increased number of poor children in a recession and the rising number of children in child care, the block grants would shift substantial costs to states and localities, school districts, and child care providers.

The proposal also shifts federal funds for school food programs from poor states to affluent ones. Its formula for allocating school nutrition block grant funds among states is deeply flawed; it is based in large part on the total number of school meals served in a state, without regard to whether meals are served free to poor children — thereby requiring a large subsidy — or purchased by more affluent children. Today, the level of federal funds provided to a state depends on the *type* of meals provided, with a meal provided free to a poor child carrying a subsidy six times larger than the subsidy for a meal purchased by a middle- or upper-income child. Because it ignores this distinction, the block grant would shift federal funds from states in which a larger-than-average proportion of school meals go to low-income children to states in which a smaller-than-average proportion of school meals are served to such children. Due to other quirks, the block grant also would enable some states to shift federal school nutrition funds from cities to more affluent suburbs.

In addition, the proposed school nutrition block grant would drop requirements that school lunches provide one-third of the Recommended Daily Allowances for basic nutrients and that poor children not be made to pay for their meals.

DO THE BLOCK GRANTS CUT CHILD NUTRITION PROGRAMS?

Those attempting to assess the child nutrition block grants approved February 23 by the House Economic and Educational Opportunities Committee are encountering contradictory claims. Some defenders of the block grants say the legislation does not cut child nutrition programs and, in fact, increases them 4.5 percent per year. Only bureaucracy would be sliced, they contend. Some critics contend the block grants would cut the child nutrition programs $7 billion over the next five years. Who is correct?

- The Congressional Budget Office (CBO) estimates that the child nutrition block grants would result in cuts in child nutrition programs of $5 billion over the next five years, using the new CBO baseline the House Republican majority approved in January 1995. Using the traditional CBO baseline, the reduction is $7 billion over five years.

- These figures do not include savings in federal administrative costs and bureaucracy. Any such savings would remain at the federal level; none of those savings would be available to states, schools, or local WIC programs to help cushion the impact of the funding reductions caused by the block grants. Furthermore, the Congressional Budget Office estimates the federal administrative savings resulting from the block grants would be small, amounting to only about 1.5 percent of the total cuts from the proposal.

- The claim made by some that under the block grants funding for child nutrition programs would rise next year is not correct. Federal funding for these programs is $11.6 billion in fiscal year 1995, according to CBO. It would drop to $11.3 billion in fiscal year 1996 under the block grants *if* the block grants were fully funded. Thus, even if food price inflation and rising school enrollments are ignored, there would be a funding decrease.

  The claim that funding would rise next year is based on a comparison of the fiscal year 1995 funding level and the fiscal year 1996 block grant level just for the school food programs. Fiscal year 1996 block grant funding for the school food programs would be about $150 million higher than school food funding in fiscal year 1995. But FY 1996 block grant funding would be nearly $200 million *lower* than what the school food programs would receive under current law; this is because current law funding automatically keeps pace with food price inflation and rising enrollments while the block grant funding would not. Based on CBO data, school nutrition block grant funding would be $2.3 billion less over the next five years than schools would receive under current law.

- Higher food prices and larger school enrollments are realities that schools must deal with. To live within the funding levels provided under the block grant, many school food programs would have to eliminate some meal services (such as school breakfasts), raise the prices students pay for meals, reduce meal portions, or take other actions to cut costs.

- The funding reductions would be steepest in child nutrition programs operated outside schools. Under the family nutrition block grant, the maximum amount of funding available in fiscal year 1996 for the child care food program and the summer food program for children would be over 45 percent less than the amount these programs would receive under current law. Fees that many parents pay for child care would likely rise as a result.

- Some in the House leadership now describe the child nutrition bill as containing no cuts. They are unlikely to continue presenting the bill as containing no budget cuts when they begin to work on their tax bill this spring. At that time, the House leadership is expected to use the CBO estimates that these block grants entail several billion dollars in spending cuts and make use of these child nutrition budget reductions to help pay for tax cuts they favor.

Finally, because the block grant would repeal federal meal standards while distributing federal funds in substantial part based on the number of meals served, it would create perverse incentives for states and schools to offer and sell large numbers of snacks at low cost to maximize their share of federal funds. In allocating federal funds in accordance with the total number of meals served in each state, the block grant would treat full lunches served free to poor children the same as low-cost snacks sold to middle-income students. Each type of meal would effectively qualify a state for the same amount of federal funds.

This would also create incentives for schools to cease operating summer food programs that provide lunches to poor children. Since the additional amount of federal funds a state would receive for providing more lunches to poor children would be substantially less than the cost to schools of providing such lunches, schools would likely be discouraged from participating in this program. On a related front, the funding formula also would create incentives for schools to reduce the amount of food provided in school meals, since smaller meals would result in no less federal funding then more adequate meals, while the fuller meals would cost states more to provide.

Impacts on the WIC Program

More than 100,000 low-income pregnant women, infants, and children at nutritional risk would likely have to be removed from the WIC program next year. The amount earmarked for WIC-like services under the block grant would serve about 125,000 fewer people in fiscal year 1996 than USDA estimates will be on WIC at the end of fiscal year 1995. States could avert caseload cutbacks by reducing the WIC foods provided to participants, but that would entail giving at-risk women and young children part rather than all of the food that WIC health professionals otherwise would prescribe for them.

The block grant also would repeal federal cost containment requirements for the purchase of infant formula in WIC, requirements that now save $1.1 billion a year. The repeal of these requirements could lead to substantial increases in WIC infant formula costs and fewer women, infants, and children served as a result.

The block grant also would repeal the federal research-based standards concerning the foods in the WIC "food package." Each state would determine which foods to provide. It is likely that in a number of states, food industries or farm groups located in, or otherwise powerful in, the state would succeed in having some of their foods added to the state's WIC food package. Where this occurred, it would necessitate either that other foods be dropped from WIC despite being of greater medical importance to low-income pregnant women and young children or that fewer women and children be served because the per-person food costs had increased.

Child Care Food Program and Summer Food Program

The programs hit hardest would be the Child and Adult Care Food Program and the Summer Food Program. Of the $4.6 billion authorized for the family nutrition block grant, 80 percent — or a little less than $3.7 billion — would be earmarked for WIC-type services. This would leave $921 million for other child nutrition programs, a reduction of more than 45 percent from their FY 1996 funding levels under current law (and under the new Clinton budget).

The family nutrition block grant would terminate support for meals served in child care settings to children with family incomes above 185 percent of the poverty line. While this would initially provide much of the savings needed to fit within the block grant's funding ceiling, cuts in food assistance for low-income children would be needed as well. Moreover, such cuts would grow much larger in subsequent years as the number of low-income children in child care settings climbed — in part due to welfare reform — but funds under the family nutrition block grant barely kept pace with food price inflation. As funding crunches intensified, a growing number of states would likely cut back or eliminate the summer food service program for poor children in summer months. (The portion of the summer program run outside of schools — the major portion of this program — is covered under this block grant.)

Adding to these problems, the funding formula for this block grant could lead to inequitable distribution of funds and create perverse incentives, just as the formula for distributing funds under the school nutrition block grant would. The funding formula for the family nutrition block grant would be based in substantial part on the number of individuals served in the previous year, with no distinction made between a child receiving meals for a few weeks in a child care center or summer food program and a pregnant woman or child receiving a year's worth of WIC foods. As a consequence of the peculiar allocation of funds that could result, some states could be seriously underfunded and have to cut their WIC programs further.

The elimination of all support for meals served to children in child care settings who have family income above 185 percent of the poverty line would have significant consequences as well. Many such homes operate "above ground," become licensed, and pay taxes primarily to qualify for financial support for the meals they serve. While federal support for meals served to middle-income children in day care homes can be reduced, eliminating it altogether will remove an incentive for many homes to come "above ground" and get licensed. As a result, more children are likely to be cared for in homes that may not meet basic child health and safety standards.

In addition, many child care institutions will have to raise fees to parents to make up for the loss in federal meal support. Some institutions charge a flat fee regardless of income, and some working poor families with children enrolled in such institutions will have to pay increased child care fees, along with middle-income parents.

To be sure, the increased fees that will result will primarily affect moderate- and middle-income families. This raises a point of interest on another front. The increased fees these parents would pay to offset the loss of federal meal reimbursements would likely be the first of a number of costs shifted to middle-income families to satisfy the Contract with America's call to balance the budget, boost defense spending, and institute major tax cuts (including large tax cuts directed toward upper-income individuals) at the same time.

Provisions Dealing With Children Not Legally Present in the United States

Finally, the two new child nutrition block grants contain a feature likely to increase infant mortality and low birthweight and raise federal and state Medicaid costs. This provision also would increase administrative costs and burdens in both the school food programs and other child nutrition programs.

All child nutrition programs would be barred from serving children not legally present in the United States. Schools, child care centers and homes, and local WIC programs would need to determine which children are neither U.S. citizens nor legal aliens. It is not clear what procedures schools and other programs would use to make this determination, but it likely would involve significant new administrative efforts.

Schools are required under the U.S. Constitution to enroll and educate children residing here without regard to the legality of their residence status. Since children who are undocumented would already be in school, the schools presumably would not refuse to serve them meals during the school day. If these children failed to eat lunch and went hungry, they could be disruptive in classrooms. Most likely, schools would continue providing meals to these children but would absorb the cost of doing so as well as the administrative costs of identifying these children.

The most striking effect of the provision barring undocumented children from the child nutrition programs would be felt in the WIC program. Research on WIC shows that WIC benefits provided to pregnant women markedly reduce infant mortality and low birthweight. These WIC benefits also save a great deal of money, as studies conducted by USDA during the Bush Administration demonstrated. After reviewing the research in the field, the General Accounting Office reported that each dollar spent on WIC for pregnant women saves approximately $3.50 in cost, with most of these being Medicaid savings. Since WIC results in many fewer low birthweight infants and low birthweight infants often require costly intensive care, WIC benefits provided to pregnant women yield large savings.

Infants born to poor pregnant women who are denied WIC benefits because they are undocumented will be U.S. citizens, since the infants will have been born on U.S. soil. These infants consequently will be eligible for Medicaid and other programs. To deny them Medicaid or other benefits on the grounds that their parents are not here legally would be unconstitutional.

An extensive body of research on WIC thus suggests that denying WIC benefits to poor pregnant women who are not legally present in the country is likely to cost U.S. taxpayers money, as well as to lead to some increase in infant deaths and in the incidence of low-weight births.

Nicole -

The attached was distributed at the Domestic Policy Council meeting tonight. Ms. Rasco thought it might be of help as it is an update of the info. we sent earlier ~~today~~.

Roz X62249

Nicole Rabner
OEOB 101.
for Melanne Verveer

Children in the Child Protection System

Abused children

♦ 2.9 million children were reported as abused or neglected in 1993.

Among substantiated cases of child maltreatment, 44% were for neglect, 22% were for physical abuse, 13% for sexual abuse, 5% for emotional maltreatment, and 16% for other forms of maltreatment.

♦ 1,028 child fatalities from maltreatment were reported by 46 states in 1993. (The National Committee for Prevention of Child Abuse estimates that there were 1,261 child fatalities from maltreatment in all the states in 1992)

Children in Foster Care

♦ Approximately 444,000 children are projected to have been in foster care at the end of 1993; the number of children who enter and exit foster care each year is substantially higher.

♦ Of these children, about 245,000 qualify for federal reimbursement under Title IV-E Foster Care Maintenance payments.

♦ During 1990, the number of children in care increased by 11.8%, the largest increase since 1982.

♦ Two-thirds of the children leaving care return to their own families.

Adoption

♦ During 1990, an estimated 17,000 children who had been in foster care had their adoptions finalized.

♦ During 1990, 69,000 children in the foster care system had the goal of adoption, 20,000 of whom were legally free (i.e. parental rights had been terminated).

♦ During 1990, the median length of time that children waited for adoption was 1.8 years.

The data are from the National Child Abuse and Neglect Data System (NCANDS) and the Voluntary Cooperative Information System, 1993 (administered by American Public Welfare Association)

Talking Points on Shaw Child Protection Block Grant

- The proposed Child Protection Block Grant will not protect children in crisis nor reform the child welfare system. The amount of the block grant is set at $4.1 billion in FY96 compared with $4.75 billion that would have been available if current programs were continued. Over five years, $5.6 billion of federal funding for State child protection systems will be lost.

- The child protection system today is overburdened and unable to respond adequately to the needs of children. Nearly 3 million children - 4% of America's children - were the subjects of abuse and neglect reports in 1993, a nearly 25% increase from 1988; 40% of the reports were substantiated, affecting 1 million children. Over one thousand children die each year from maltreatment.

  During that same period, foster care caseloads increased by almost 50%, reaching 440,000 children in foster care at the end of 1993. Close to 25% of children entering foster care are under age one, and many were exposed to drugs prenatally.

- Capping foster care and adoption assistance payments eliminates a critical safety valve for the States. State laws appropriately require courts to place children in foster care when they will not be safe at home, and placement is affected by many unpredictable factors such as population growth and poverty, economic dislocation, parental drug use and the numbers of abused and neglected children being identified.

  Other parts of the Personal Responsibility Act, which reduce funds for AFDC, SSI and other programs that provide basic support to society's vulnerable children, may also increase the numbers of children needing protection and State care.

- Eliminating adoption assistance payments and including them in a capped block grant could lead to sharp cutbacks in efforts to recruit adoptive parents and place children in adoptive homes.

- The proposed use of a funding formula which allocates funds to States based on past claims of Federal dollars severely disadvantages States that have growing needs or that are only beginning to reform and improve their systems. Given limited resources and burgeoning need for protective intervention and foster care, few resources will be available for critical services that promote improved outcomes for children: community-based prevention and permanency.

- Under this proposal, more States may come under court supervision of their child protection systems. In the past few years, courts in 22 States and the District of Columbia have found that the child welfare system violates State and federal laws for protecting abused and neglected children. Courts have found that many reports of child abuse are not investigated, children in foster care lack case plans and in some instances even have no caseworker, children are not provided with basic protections and children under agency care continue to be damaged both at home or in foster care.

- The proposal virtually eliminates Federal accountability and enforcement mechanisms. Local citizen review boards authorized in the bill have no enforcement powers and the bill specifically prohibits federal enforcement of any provisions of the Block Grant that relate to protecting children, even if a State is not complying with any of the activities it certified it would carry out.

SUMMARY BUDGET TABLE FOR
SHAW CHILD PROTECTION BLOCK GRANT

This table summarizes the likely budgetary impact of the Shaw proposal to block grant child welfare programs. As reflected in the table, between FY 1996 and FY 2000, states will lose almost $5.6 billion, or 20 percent of their funding.

Notes:

1. FY 1994 levels are actual expenditures. Levels for FYs 1995-2000 reflect projected outlays based on the President's current services baseline.

2. CAPTA Community Based Family Resource Program (CBFRP) was first funded in FY 1995 as a consolidation of three programs: the Emergency Protection Grants Program; the CAPTA Community-Based Prevention Program; and the Family Resource and Support Center Program. The FY 1994 level reflects the sum of the levels for the three consolidated programs.

BUDGETARY IMPACT OF SHAW CHILD PROTECTION BLOCK GRANT PROPOSAL
Current law estimates as compared to proposed block grant: Outlays in $ millions

13-Feb-95	FY 1994 Actual	FY 1995 Estimate	FY 1996 Baseline	FY 1997 Baseline	FY 1998 Baseline	FY 1999 Baseline	FY 2000 Baseline	5-year Total
IV-E Foster Care	$2,655	$3,118	$3,506	$3,740	$4,090	$4,471	$4,884	$20,691
IV-E Adoption Assistance	314	407	475	519	562	608	658	$2,822
IV-E Independent Living	61	71	70	70	70	70	70	$350
IV-B Child Welfare Services	267	304	301	308	318	328	338	$1,592
IV-B Family Preservation/Support	1	67	148	212	237	253	263	$1,112
IV-B Research and Demonstration	5	6	6	6	7	7	7	$34
IV-B Training	4	4	4	5	5	5	5	$24
CAPTA Commun. Family Resource Program	7	10	29	31	33	34	35	$162
CAPTA State Grants	17	22	23	23	24	25	26	$120
CAPTA Discretionary	12	16	15	15	16	17	17	$81
Family Violence Prevention and Services	24	28	32	34	35	36	37	$173
Social Services Research	10	15	15	15	16	16	17	$79
Abandoned Infants	12	15	14	14	15	16	16	$76
Adoption Opportunities	10	12	13	13	14	14	15	$69
Family Support Centers	3	10	7	8	9	9	9	$43
Family Unification Program (HUD) /a	77	76	78	81	83	86	88	$416
Missing and Exploited Children (DoJ) /a	7	7	7	7	7	8	8	$37
Children's Advocacy Centers (DoJ) /a	2	3	3	3	3	3	3	$16
Prosecution of Child Abuse (DoJ) /a	1	2	2	2	2	2	2	$8
Total, Child Welfare programs	$3,489	$4,192	$4,749	$5,107	$5,544	$6,006	$6,498	$27,905
Shaw Block Grant Level /a			$4,145	$4,308	$4,471	$4,631	$4,789	$22,344
Difference			*-$604*	*-$799*	*-$1,073*	*-$1,375*	*-$1,709*	*-$5,561*
Percent lost			*-13%*	*-16%*	*-19%*	*-23%*	*-26%*	*-20%*

FY 1994 figures are actual outlays. All other Figures are based on Administration baseline projections.

/a Assumes all funds outlay in the year they are appropriated.

EFFECTS OF THE CHILD PROTECTION BLOCK GRANT IN THE YEAR 2000

FY 2000 Current Law Estimate[1]:	$6,498,000,000
FY 2000 Proposed Block Grant Level:	-$4,789,000,000
Amount of funds that are cut:	$1,709,000,000
Estimated Federal cost per foster child in FY 2000[2]:	$15,282
Number of foster care slots lost[3]:	111,831

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[1]Based on Current Services estimates from the President's FY 1996 Budget

[2]Projection based on Federal share of costs for Federally subsidized foster care.

[3]Assumes that States apply the $1.7 billion cut to foster care.

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

file
Children -
Grassley
bill

July 21, 1995

TO: Nicole Rabner

FROM: Wendy Jacobson WJ

SUBJECT: Parental Rights and Responsibilities Act

As requested, I am forwarding three documents on the Parental Rights and Responsibilities Act, which is included in the Christian Coalition's "Contract with the American Family":

1. A copy of the Senate bill.

2. A brief analysis by People for the American Way

3. A more lengthy summary and analysis by the American Bar Association Center on Children and the Law.

We are aware that other groups are in the process of analyzing this bill and will keep you up to date as we have more information.

Attachments.

S984 Grassley (R-IA) 06/29/95 (186 lines)
Introduced in Senate

To protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

Special typefaces used in this bill version:
// \\ Italic
!! !! Bold roman
Item Key: 4527

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104TH CONGRESS
1ST SESSION

S. 984

To protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 29 (legislative day, JUNE 19), 1995

Mr. GRASSLEY (for himself, Mr. LOTT, Mr. HELMS, and Mr. COCHRAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

//Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,\\

!!SECTION 1. SHORT TITLE.!!

This Act may be cited as the "Parental Rights and Responsibilities Act of 1995".

!!SEC. 2. FINDINGS AND PURPOSES.!!

(a) FINDINGS.--Congress finds that--
(1) the Supreme Court has regarded the right of parents to direct the upbringing of their children as a fundamental right implicit in the concept of ordered liberty within the 14th amendment to the Constitution, as specified in Meyer v. Nebraska, 262 U.S. 390 (1923) and Pierce v. Society of Sisters, 268 U.S.

510 (1925);

(2) the role of parents in the raising and rearing of their children is of inestimable value and deserving of both praise and protection by all levels of government;

(3) the tradition of western civilization recognizes that parents have the responsibility to love, nurture, train, and protect their children;

(4) some decisions of Federal and State courts have treated the right of parents not as a fundamental right but as a nonfundamental right, resulting in an improper standard of judicial review being applied to government conduct that adversely affects parental rights and prerogatives;

(5) parents face increasing intrusions into their legitimate decisions and prerogatives by government agencies in situations that do not involve traditional understandings of abuse or neglect but simply are a conflict of parenting philosophies;

(6) governments should not interfere in the decisions and actions of parents without compelling justification; and

(7) the traditional 4-step process used by courts to evaluate cases concerning the right of parents described in paragraph (1) appropriately balances the interests of parents, children, and government.

(b) PURPOSES.--The purposes of this Act are--

(1) to protect the right of parents to direct the upbringing of their children as a fundamental right;

(2) to protect children from abuse and neglect as the terms have been traditionally defined and applied in State law, such protection being a compelling government interest;

(3) while protecting the rights of parents, to acknowledge that the rights involve responsibilities and specifically that parents have the responsibility to see that their children are educated, for the purposes of literacy and self-sufficiency, as specified by the Supreme Court in Wisconsin v. Yoder, 406 U.S. 205 (1972);

(4) to preserve the common law tradition that allows parental choices to prevail in a health care decision for a child unless, by neglect or refusal, the parental decision will result in danger to the life of the child or result in serious physical injury to the child;

(5) to fix a standard of judicial review for parental rights, leaving to the courts the application of the rights in particular cases based on the facts of the cases and law as applied to the facts; and

(6) to reestablish a 4-step process to evaluate cases concerning the right of parents described in paragraph (1) that--

(A) requires a parent to initially demonstrate that--

(i) the action in question arises from the right of the parent to direct the upbringing of a child; and

(ii) a government has interfered with or usurped the right; and

(B) shifts the burdens of production and persuasion to

the government to demonstrate that--
(i) the interference or usurpation is essential to accomplish a compelling governmental interest; and
(ii) the method of intervention or usurpation used by the government is the least restrictive means of accomplishing the compelling interest.

!!SEC. 3. DEFINITIONS.!!

As used in this Act:
(1) APPROPRIATE EVIDENCE.--The term "appropriate evidence" means--
(A) for a case in which a government seeks a temporary or preliminary action or order, except a case in which the government seeks to terminate parental custody or visitation, evidence that demonstrates probable cause; and
(B) for a case in which a government seeks a final action or order, or in which the government seeks to terminate parental custody or visitation, clear and convincing evidence.
(2) CHILD.--The term "child" has the meaning provided by State law.
(3) PARENT.--The term "parent" has the meaning provided by State law.
(4) RIGHT OF A PARENT TO DIRECT THE UPBRINGING OF A CHILD.--

(A) IN GENERAL.--The term "right of a parent to direct the upbringing of a child" includes, but is not limited to a right of a parent regarding--
(i) directing or providing for the education of the child;
(ii) making a health care decision for the child, except as provided in subparagraph (B);
(iii) disciplining the child, including reasonable corporal discipline, except as provided in subparagraph (C); and
(iv) directing or providing for the religious teaching of the child.
(B) NO APPLICATION TO PARENTAL DECISIONS ON HEALTH CARE.--The term "right of a parent to direct the upbringing of a child" shall not include a right of a parent to make a decision on health care for the child that, by neglect or refusal, will result in danger to the life of the child or in serious physical injury to the child.
(C) NO APPLICATION TO ABUSE AND NEGLECT.--The term "right of a parent to direct the upbringing of a child" shall not include a right of a parent to act or refrain from acting in a manner that constitutes abuse or neglect of a child, as the terms have traditionally been defined and applied in State law.

!!SEC. 4. PROHIBITION ON INTERFERING WITH OR USURPING RIGHTS OF PARENTS.!!

No Federal, State, or local government, or any official of such a government acting under color of law, shall interfere with or usurp the right of a parent to direct the upbringing of the child of the parent.

!!SEC. 5. STRICT SCRUTINY.!!

No exception to section 4 shall be permitted, unless the government or official is able to demonstrate, by appropriate evidence, that the interference or usurpation is essential to accomplish a compelling governmental interest and is narrowly drawn or applied in a manner that is the least restrictive means of accomplishing the compelling interest.

!!SEC. 6. CLAIM OR DEFENSE.!!

Any parent may raise a violation of this Act in an action in a Federal or State court, or before an administrative tribunal, of appropriate jurisdiction as a claim or a defense.

!!SEC. 7. DOMESTIC RELATIONS CASES AND DISPUTES BETWEEN PARENTS.!!

This Act shall not apply to--

(1) domestic relations cases concerning the appointment of parental rights between parents in custody disputes; or

(2) any other dispute between parents.

!!SEC. 8. ATTORNEY'S FEES.!!

Subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988 (b) and (c)) (concerning the award of attorney's and expert fees) shall apply to cases brought or defended under this Act. A person who uses this Act to defend against a suit by a government described in section 4 shall be construed to be the plaintiff for the purposes of the application of such subsections.

PEOPLE FOR THE AMERICAN WAY ACTION FUND

Your Voice Against Intolerance

THE PARENTAL RIGHTS AND RESPONSIBILITIES ACT

The Parental Rights and Responsibilities Act of 1995, which would pre-empt numerous federal laws that affect children, was included in the Christian Coalition's "Contract with the American Family" and mirrors several initiatives to amend state constitutions. In the U.S. House of Representatives, Rep. Steve Largent (R-OK) and Rep. Mike Parker (D-MS) are sponsoring the legislation, as is Senator Charles Grassley (R-IA) in the U.S. Senate.

The legislation asserts that "the right of parents to direct the upbringing of their children" is a "fundamental right" which "includes, but is not limited to" the right of a parent to direct or provide the education of one's children, make health care decisions for one's children, provide discipline for one's children including reasonable corporal discipline, and direct or provide the religious training of one's children.

Proponents of the legislation claim that increasing government intervention into the lives of families has resulted in attacks on a parent's right to govern the upbringing of his or her children and have insisted that the only way to counter such abuses by the government is to allow for a private right of action-- calling for a federal judge to determine whether a parent's rights have been ignored.

If the Parental Rights and Responsibilities Act of 1995 were to become law, Religious Right groups would be empowered to challenge, in federal court, virtually every decision of public schools, libraries and health and welfare programs. In addition, it could prevent minor's access to comprehensive health care and sex education and thwart child abuse and child labor laws.

TALKING POINTS:

In reviewing the legislation, several questions arise as to how such a broad statute could be interpreted:

- Would this bill nullify state legislation granting older minors the right to receive medical care and treatment?
- Does the measure allow for parents to re-litigate child abuse cases by filing a court action claiming that the abuse was "reasonable corporal discipline?"
- Could the legislation bring about litigation terminating child labor, school attendance, teen curfew or mandatory vaccination laws?
- Would schools be able to engage in corporal punishment of schoolchildren, arguing that schools are acting *in loco parentis* and therefore have the same discipline rights as parents?

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- Would "best interests of the child" criteria be overlooked in favor of the rights of negligent biological parents in adoption cases?
- Could the Act result in the forced sterilization of developmentally disabled or mentally ill children?
- Could the bill be used to challenge state welfare reform efforts that deny assistance to a parent based on the parent's age or if the parent were to have children while on welfare?

THE PARENTAL RIGHTS AND RESPONSIBILITIES ACT:

Representative Largent's stated goal for introducing the legislation is to "re-affirm the fact that the majority of parents have the best interest and safety of their children at heart..." In the Religious Right media, however, the message takes on a much different tone. Of The People, the Arlington, VA-based group sponsoring the state initiatives, has been a frequent guest on right-wing radio programs. When asked about the amendment by Focus on the Family, Of The People's Executive Director, Greg Erken, responded, "We talk to parents every day across this country and they tell us that they have no effective vehicle to challenge something like outcome based education, condom distribution, etc." He also stated that the legislation is necessary to stop the U.N. Convention on the Rights of the Child as it could interfere in the discipline and training of American children and that "the time has come to make explicit that it's parents and not government that raises the family." Furthermore, Erken has stated that they support "more access to...library checkout records" and "believes that the amendment could also be used to restrict or remove materials from public libraries."

The Parental Rights and Responsibilities Act can be read to nullify all child labor and anti-child abuse laws, and to require school districts to allow curriculum and materials decisions to be made by each parent rather than by educators. The danger of this legislation is in its innocuous, pro-family "mask" which misleads legislators and the public. It is important to contact your representatives and senators and express your opposition to H.R. 1946/S. 984.

July 12, 1995

THE PROPOSED FEDERAL PARENTAL RIGHTS AND RESPONSIBILITIES ACT

Howard Davidson, Director *Carolyn Weiss, Legal Intern*
ABA Center on Children and the Law
740 15th Street, NW, Washington, DC 20005 (202/662-1740)

I. The Federal Legislation

A. House Bill, H.R. 1946, introduced by Cong. Largent (R.-OK) and Parker (D.-MS), June 28, 1995. Referred to Judiciary Committee. In their "Dear Colleague" letter seeking co-sponsorship, Cong. Largent and Parker asserted that families "are suffering massive invasions of privacy" by courts and governments, and that in some child abuse/neglect investigations "parents are finding out that they have fewer rights than criminals." A Talking Points memo circulated by Cong. Largent's office says that the Act extends to families "the right to appeal for over-intrusive government actions," but that it "does not create, invent or grant" any new rights. The memo says its use will stop "the horror stories of shoot-first-ask-questions-later policies."

B. Senate Bill, S. 984, introduced by Sen. Grassley (R.-IA), Lott (R.-MS), Helms (R.-NC), and Cochran (R.-MS), June 28, 1995. Referred to Judiciary Committee. Sen. Grassley's floor statement (*Congressional Record, June 29, 1995, S9427*) asserts that lower courts "have not always followed" the high standard set forth by the Supreme Court to protect the parent-child relationship and calls recent judicial assaults "unprecedented". Material (a Question and Answer memo) circulated by Sen. Grassley's office says the bill is necessary becuse lower courts "and administrative tribunals" haven't always used the "appropriate standard of judicial review" in cases of governmental interference with or usurption of parental rights. The Q & A also suggests it is necessary to clarify that parents have the same rights to use corporal punishment as the Supreme Court, in the 1977 *Ingraham* case, affirmed for use in schools. It says that under the Act parents will find it "easier" to opt their children out of school classes parents "consider harmful" and the Act would permit parents to "be free" to make health care decisions for children -- short of placing children's lives at-risk or where serious physical disability would result. It claims that rather than create a "litigation nightmare," the Act will "simplify the work of judges by clearly stating a synopsis of how to apply Supreme Court precedent."

II. What the U.S. Supreme Court Recently Said About Parental Rights

A. Justice Scalia, speaking for the Court in *Veronia School District v. Acton* (June 26, 1995), affirmed the fundamental nature of parental rights.

B. *Emphasis added:* "Traditionally at common law, *and still today*, unemancipated minors lack some of the most fundamental rights of self determination--including even the right of liberty in its narrow sense, i.e., the right to come and go at will. They are subject, even as to their physical freedom, to *the control of their parents or guardians*." Scalia cited the legal scholar Blackstone (writing in 1769) for the proposition that parental power includes "restraint and correction" of children.

III. Inclusion Within Christian Coalition's (CC) 1995 *Contract With the American Family* and Support by the Family Research Council

A. CC's *Contract* calls for the enactment of federal parental rights legislation, saying that such rights (in sharp contrast to Justice Scalia's recent reaffirmation of them) are "under increasing assault" and that federal legislation will "ensure (they) are not violated." The *Contract* cites three examples of offensive governmental actions: State removal of a child who objected to parents' restrictions, e.g., drugs/curfew (*Sumey*, see VI. below), removal of a child because parents discontinued a hyperactive child's therapy (*Ray*, see VI. below), and a municipal investigation that found a large percentage of foster children had been improperly removed from their biological families (i.e., a report of a special *San Diego* grand jury calling for more training and professionalism in the operation of the government child protective service agency, and more focus on family preservation services -- views shared by most child advocates).

B. CC says the United Nations Convention on the Rights of the Child (ratified as of June, 1995 by 174 nations) "explifies" the "very real" threat to the rights of parents that they say the federal legislation "would counteract"). This "threat" is that the Convention would "interfere with the parent-child relationship," and that under it parents could well "lose their right to prevent" their child from associating with disreputable individuals such as delinquents, or from receiving literature or gaining access to mass media communications (including films and television) that is not age-appropriate. It calls for the Convention's rejection by the U.S. as being "in the best interests of American parents."

C. The conservative Family Research Council has a publication (found on the Internet) which says that federal parental rights legislation is designed primarily as a response to parents' "inability to control important aspects of their children's education" (the term "Home Schooling" is never mentioned) and that such legislation would "support parents who want to opt their children out of offensive sex education programs." The FRC says that legislation would also "prohibit government interference" with regard to parental medical decisions for children (implied but not mentioned is the use of "Spiritual Healing"), the use of reasonable corporal punishment, and direction/provision of religious teaching.

This publication raises some pro-life related concerns about such legislation (although the word "abortion" does not appear in the proposed Act): Could it actually *prevent* governmental intrusion to stop parents who are influencing or coercing their daughters to have abortions, and might it be *inadequate* to invalidate state policies which permit a minor's abortion decision to be personal and private? The National Right to Life Committee has voiced opposition to the legislation, as introduced.

IV. Similar State Legislation and Proposed State Constitutional Amendments

Proponents claim these have been introduced in over half the states. The text of the proposed state constitutional amendment, being advocated by an Arlington, VA group, "Of the People," says: "the right of parents to direct the upbringing and education of their children shall not be infringed."

V. Analysis of the Federal Bills

A. Effect of the Legislation (Sections 4, 5, 6, and 8)

1. Would prohibit any level of government (or government "official") from interfering with or usurping the right of a parent to direct the upbringing of their child, defined as including, "but not limited" to:

a. Directing or providing for a child's education
b. Making health care decisions (but see C.4 below)
c. Disciplining a child, including reasonable corporal punishment (but see C.2 below)
d. Directing or providing for the religious teaching of the child

2. Would allow a parent to assert the Act in *any* State or Federal court action or administrative proceeding (including an action brought by the parent)

3. Would provide for a legal cause of action, or a special defense in other actions, that asserts a violation of the Act

4. Would provide for recovery of attorney's fees for parents who utilize the Act

5. Would require a "strict scrutiny" test for all governmental actions infringing on such parental rights -- i.e., that there be *evidence presented by the government* demonstrating that those actions were "essential to accomplish a compelling governmental interest" and were "narrowly drawn or applied in a manner that is the least restrictive means" to that end.

6. Would require -- where government takes *temporary* action or seeks *temporary* court orders that would briefly interfere with or usurp parental rights -- that evidence show *probable cause* that the action was essential.

7. Would require -- where government seeks *any final* action or order to permanently interfere with or usurp parental rights, or permanently terminate parental custody or visitation -- that evidence of the essential nature of that action be shown by *clear and convincing evidence* (this is the standard required for state actions to permanently and involuntarily terminate parental rights due to child abuse, neglect, or abandonment, pursuant to the U.S. Supreme Court 1982 case of *Santosky v. Kramer*).

[Note that Section 7 of the Act would make its provisions inapplicable to parental (domestic relations-related) custody disputes or to other disputes between parents]

B. "Findings" Section

1. Focuses on the Supreme Court's affirmation of the fundamental right of parents "to direct the upbringing of their children"

2. Addresses the importance of "protection by" government of that right

3. Says parental responsibility is a tradition of "western" civilization

4. Indicates that "some" courts have treated parental rights as "nonfundamental" -- resulting in an improper "standard of judicial review" applied to government conduct that (adversely) limits parental rights and "prerogatives"

5. Asserts that parents face "increasing" intrusions by "government agencies" that amount to a conflict of "parenting philosophies"

6. Says "governments" should not interfere in parental "decisions" and "actions" without "compelling justification"

7. Affirms court use of a "traditional 4-step process" (see C.) in balancing the interests of parents, children, and government

C. "Purposes" Section

1. Parental direction in the upbringing of children is a "fundamental right" that should be protected

2. There is a "compelling government interest" in protecting children from abuse and neglect -- as these terms have been "traditionally defined and applied in statutory law" (such child abuse and neglect is made an *exception* to the Act)

3. Acknowledges parental responsibility for their children's education (for "purposes of literacy and self-sufficiency")

4. Preserves the "common law tradition" that parental decisions related to a child's health care prevail *unless* "by neglect or refusal" this will endanger child's life or cause "serious physical injury" (such endangerment situations are made *exceptions* to the Act)

5. Proposes to "fix a standard of judicial review for parental rights"

6. "Reestablishes" (?) a *4-Step Process* for evaluting judicial cases and administrative proceedings concerning infringements on parental rights that would:

a. Require parents to show their actions relate to directing their child's upbringing

b. Require parents to show that government has "interfered with" or "usurped" their right to do so

c. Shift legal burden *to the government* to show that the interference or usurption is "essential to accomplish a compelling governmental interest"

d. Require government to show that it is acting with the "least restrictive means" necessary

D. Definitions (we've incorporated these into A. above)

VI. Possible Areas Where the Act Might be Harmful to Both Children *and* to the Parent-Child Relationship -- or May Have Unintended Consequences

A. Would the Act result -- for significant percentages of cases where children are removed from home by State child protection workers and placed in foster care, or where children have become subjects of State judicial child abuse proceedings -- in parents re-litigating the case by filing *separate* court actions asserting that their behavior was not "abuse" but rather was a legitimate use of corporal punishment? Would large numbers of parents in child abuse court proceedings raise as a claim or defense *within those proceedings* allegations of improper governmental interference with the parent-child relationship? Would this have a chilling effect on State administrative and judicial actions to protect children from abusive parents? Would the Act undermine the role of juvenile court judges in helping resolve child maltreatment cases?

B. Given that many State legislatures have recognized that older, "mature" minors have the right to receive certain types of medical care and treatment even in the absence of parental consent, would this Act result in litigation that would seek to nullify those laws?

C. In view of the fact that the Supreme Court has repeatedly affirmed the fundamental nature of parental rights and family privacy, would the Act present an opportunity to legally challenge State "welfare reform" laws (and related Federal legislation, if enacted) that deny public assistance to a parent and their children where the parent bears additional children, is a minor, is an immigrant, refuses to live with the children's grandparent, or otherwise fails to abide by the welfare "requirements" set by the State?

D. Would the Act lead to litigation that might undermine the exercise of State legitimate *parens patriae* authority in such matters as compelling school attendance, regulating child labor, or in otherwise protecting children from harm (such as mandatory vaccination laws, school student drug testing requirements, and municipal "teen curfew" ordinances)?

E. Would the Act be used to seek to judicially overturn actions of State legislatures in the majority of States that have prohibited, by statute, the use of corporal punishment of schoolchildren (basing their claim under the Act that these laws intrude on the rights of parents to *have* their children corporally punished or that schools have corporal punishment rights under the Act because they're acting *in loco parentis*)?

F. Does the Act's failure to include "the best interests of the child" as an important criteria for governmental (e.g., court) action give too much priority to the rights of biological parents who may in fact *have shown little or no interest* in their children (such as unwed fathers who may disrupt a child's adoptive placement, as in the *Baby Richard* and *Baby Jessica* cases)? Would the Act also nullify *best interests of the child* considerations in state laws governing cases where parents seek involuntary psychiatric commitment of their children?

G. Would the Act have a detrimental effect on mentally ill or developmentally disabled children, in terms of parental refusal to support or consent to their needed care and treatment? Could it also result in the return of "forced sterilizations" of retarded children?

H. Wouldn't the Act's proposed protections for parents from specific types of improper governmental intrusions be better approached (rather than by this vague and sweeping bill) *through individual pieces of issue-specific legislation* -- such as:

- Federal legislation that has addressed religion issues through the federal *Religious Freedom Restoration Act*;
- Federal legislation that has addressed government surveys, testing, and examinations of children through the proposed federal *Family Privacy Prevention Act (and in past amendments to federal laws sponsored by Sen. Hatch and Grassley)*;
- Federal legislation that proposes to address spiritual healing issues through incorporation into the Senate Labor and Human Resources' Committee amendment and re-authorization of the federal *Child Abuse Prevention and Treatment Act*; and
- Federal legislation that could address specific education issues through amendment of Federal education laws?

VII. Analysis of Case Precedents Cited by Proponents as Evidence of Need for this Federal Legislation

Claim #1

The State can take a child away on the sole basis of the child's objection to parents' reasonable rules (e.g., abstaining from drugs and sex, abiding by curfew)

Case	Citation
In re Sumey	*621 P.2d* 108 (Wash. 1980)

Asserted Facts and Holding

Court supported a state's removal of a child simply because she objected to her mother's reasonable "ground rules"

Actual Facts and Holding

Extreme conflicts between a child and her parents led to the girl running away from home several times. Police and social services involvement led to substantial counseling/crisis intervention work, which failed, and the girl then asked a court (pursuant to State law) to approve her temporarily residing elsewhere than in her home. Court authorized -- saying it was a last resort -- a short-term removal from home. Parents challenged constitutionality of the law as interfering with their rights, but the appellate court disagreed on the basis that government actions were temporary (not a termination of parental rights) and *were necessitated by a serious threat to the mental, emotional, and/or physical health needs of the child that could not be met through less restrictive means*. The State law in this case was intended to strengthen families, with the primary goal of family preservation, or reunification as soon as possible. As with many State juvenile court statutes, this law says that families "should remain intact in the absence of compelling evidence to the contrary" and that due weight should be given to the right of parents "to place reasonable restriction and rules upon their children". It also says that courts should not grant a child's alternative living arrangement request if only based upon "a dislike of reasonable rules or reasonable discipline established by the parent."

Claim #2

The State can take a child away simply because a parent disagrees with others' opinions about the child's need for therapy

Case	Citation
In the Matter of Ray	408 N.Y.S.2d 737 (1978)

Asserted Facts and Holding

Court authorized removal of child from parents because mother refused to take her to therapy for hyperactivity

Actual Facts and Holding

Child's school guidance counselor recommended that her mother take her for psychiatric treatment because of hyperactivity. This therapy for the child was stopped by mother after a few sessions, despite concerns expressed by treatment personnel. This *did not* result in child's removal from home. Months later, the guidance counselor recommended the child's hospitalization. Mother insisted child did not need such help, and several years later a psychiatrist found the child severely emotionally and physically neglected and that she needed tranquilizers to counteract her hyperactivity. The child also claimed her mother hit her with a baseball bat, and she was placed in foster care. Some years later, *after* the child was diagnosed as emotionally disturbed, and upon evidence that mother had *actively thwarted* her treatment, the state filed a child neglect petition, and a court found the girl to be a neglected child. The appellate court held that mother's failure (not based on any financial concerns) to provide necessary psychiatric care for her child, which impaired the child's physical, mental, and emotional condition, did legally constitute child neglect (and most state laws, and case precedents, follow this principle).

Claim #3

The State can remove a child solely upon their parent's decision to provide the child with home schooling.

Case	Citation
Gardini v. Moyer	575 N.E.2d 423 (Ohio 1991)

Asserted Facts and Holding

The Ohio Supreme court took children out of the custody of a "fit and good mother with normal delightful children" solely because she had chosen to conduct a legal home-school program.

Actual Facts and Holding

The mother withdrew her children from school and began a home schooling program, *against the wishes of the non-custodial father*. There was evidence of financial motivations on the part of the mother, that she was not qualified to teach within the School Board's jurisdiction, and that there was no way of evaluating her ability to be a home schooling teacher. Her home schooling program was, however, approved by the State. A psychologist and other witnesses determined that the children in this case were likely going to develop conflicting loyalties from identifying even more closely with the custodial mother than the non-custodial father. The witnesses stated that they thought this educational framework would be detrimental to the children. The court held that because the home schooling would, to a reasonable degree of certainty, endanger the child's mental, emotional and social development, the change of custody orders to the father was warranted. The court actually stated that it "wish[ed] to make it clear that [it] need not address, and [did] not address, the merits of the parties' arguments as to the propriety of home schooling." Rather, it let stand the decision of the trial court that, under the circumstances of this case, it was inappropriate to place the children in a home schooling program.

Claim #4

The State can force children to participate in sex education programs.

Case	Citation
Cornwell v. State Board of Education	314 F.Supp. 340 (D.Md. 1969), aff'd. 428 F.2d 471 (4th Cir. 1970), cert. den. 400 U.S. 942 (1970)

Asserted Facts and Holding

When Maryland required every elementary school to provide comprehensive sex education for all students, parents went to federal court demanding an "opt-out" provision. The judge dismissed all their claims outright.

Actual Facts and Holding

A Maryland Board of Education bylaw required that all local school systems provide a comprehensive program of family life and sex education in every elementary and secondary school as part of health education. The parents asserted that students generally -- who were not or had not become pregnant (it was the population of *pregnant students* which spurred the bylaw) -- should not be offered the program. They claimed the law violated due process, equal protection and freedom of religion. Regarding due process, the court stated that the State Board has the authority to determine the educational policies of the state. With respect to equal protection, the court held that the statute *treated all children equally* (the policy the parents wanted, however, would not do so). In terms of freedom of religion, there was no purpose or primary effect which advanced or inhibited religion -- the purpose was public health. The court did not address, *because the plaintiffs did not assert*, the right to for an individual child to "opt-out" of the program. In actuality, however, the Board currently mandates "opt-out" and "opt-in" provisions, so that parental permission is obtained with regard to the more sensitive aspects of the program (e.g., those dealing directly with intimate relationships, sex, AIDS).

Claim #5

The State can find a parent neglectful and order medical treatment, even though there's no serious risk of harm to the child from the absence of such treatment.

Case	Citation
In the Matter of Sampson	317 N.Y.S.2d 641 (Fam.Ct. 1970), aff'd. 323 N.Y.S.2d 253 (1971), aff'd. 328 N.Y.S.2d 686 (1972).

Asserted Facts and Holding

Despite doctors' testimony that surgery designed to address the child's disfigurement was risky, offered no cure, and that waiting would decrease the risk, the judge ruled that the child was neglected and ordered a series of operations against the mother's objections.

Actual Facts and Holding

A mother refused to allow the blood transfusion necessary to ensure safety in the recommended surgery for her son, who was inflicted with a disease which resulted in severe disfigurement. Numerous witnesses testified that the surgery was the child's *only hope* for a relatively normal development and life. As a result of inadequate education (he was exempted from school), the child was virtually illiterate at age 15. He also showed signs of being seriously emotionally and psychologically affected by his disfigurement. The judge determined that, despite the decreased risk of surgery as the child's got older, the fact that the child's emotional and mental welfare had significantly suffered and would continue to suffer by virtue of the parent's refusal to allow appropriate medical care permitted the court to find the parent medically neglectful, override parental objections (even though religiously based), and order the corrective surgery, at the discretion of the doctors. (States are split in their determination of whether conditions that are not life-threatening can justify court intervention over the objections of parents. Even many of the courts that require a serious threat to physical well-being or life, however, hold that a court can override parental objections if the child is of mature years *and wants* the procedure.)

Claim #6

The State considers parents to have consented to all State inspections, searches, and investigations related to their children when the parents do not overtly object to them.

Case	Citation
E.Z. v. Coler	603 F.Supp. 1546 (N.D.Ill. 1985), aff'd sub nom. *Darryl H. v. Coler*, 801F.2d 893 (7th Cir. 1986).

Asserted Facts and Holding

Families challenged Illinois' child protective services practices of nude inspections of children, warrantless searches of homes, and failure to implement a probable cause standard for investigations of abuse. This suit was rejected, because the court held that the parents had consented to these practices by permitting the child abuse investigations to take place.

Actual Facts and Holding

Parents sued the State for violating their right to privacy, to the care and custody of their children, and to protection from unreasonable searches after child protective workers had conducted nude inspections of their children, searched their homes, and/or questioned them in response to hotline calls. The lower court held that since there was no coercion, force, or misrepresentation involved, the parents' compliance with investigators constituted consent. Nevertheless, the appellate court actually *vacated this holding* stating that compliance does not automatically constitute consent. Both the lower and appellate courts saw the searches as administrative, not criminal, and that the searches addressed imminent child welfare issues posed by abuse/neglect reports. Both the absence of probable cause and the lack of warrants were thus permitted. Both courts relied on critical *child safety* issues, not implied parental consent, for their decisions. Both lower and higher courts held that the *searches were reasonable*, given the evidence and safety issues presented to the case workers. (Some of the issues were no longer relevant by the time the case came to trial, as the child protection agency had revised its investigator's guidelines to prevent, for example, nude inspections by caseworkers during investigations of alleged child sexual abuse.)

MEMORANDUM

To: Hillary Rodham Clinton

From: Shirley Sagawa

Re: Child Care Options

Date: March 3, 1993

cc: Bill Galston
Melanne Verveer
Carol Rasco

As we discussed, many of the organizations that advocate for child care are disappointed with the relatively small increase for the Child Care Block Grant in the budget, although they have agreed to support the package. This memo provides a list of ways in which the Administration can show its support for child care without additional funding.

Roundtable Discussion on the Economics of Child Care

Child care groups have sent a letter to the President asking that he appoint a task force on the economics of child care "similar in scope and authority to the one on health care." Although such a task force is unrealistic, a day-long roundtable discussion on the issue would raise its visibility and be responsive to the constituency group's letter. HHS could organize and staff the conference with the participation of White House Domestic Policy. You or the President could drop by if your schedules permit.

Early Childhood Advisory Group

A formal or informal advisory group could be appointed to assist us on the range of policy issues affecting early childhood, including Head Start, child care, and Chapter 1. This group could meet with us once every two months or so and focus on issues we suggest, including Head Start expansion and reauthorization in 1994, reauthorization of the Child Care and Development Block Grant (the end result of the ABC bill) in 1995, and development of the parenting initiative. (An advisory group could be convened on any one of these matters.)

Child Care Coordination Working Group

We need to look at the major child care programs in HHS plus Head Start to make these programs work better together. It would be helpful to involve practitioners and their national-level advocates in identifying practical inconsistencies among the programs and ways to resolve them. We could ask HHS to convene a small group to work on this specific issue.

Revision of Block Grant regulations

Child care advocates have urged revision of the regulations governing the Child Care Block Grant to allow states to elevate the ability of states to promote quality programs. These are wise changes and could be done immediately.

Policy Directive on Quality

The Children's Defense Fund has suggested that HHS send an action transmittal to states emphasizing the importance of quality in child care. The directive could include suggested goals for licensing requirements or funding standards.

National Service Program

There will be a need to develop new models for national service if we are going to achieve the goal of 100,000 national service placements by 1997. One model ought to focus on child care/Head Start. We might ask a small group of child care and Head Start experts to help develop such a model program. In addition, the national service bill will likely provide child care support to national service participants -- this group could help advise how this could be done most efficiently.

Child Care Tax Credit

IRS has conducted excellent public education campaigns in the last two years on the Earned Income Credit. Although the same law mandating the EIC campaign also required a campaign on the Child Care Tax Credit, IRS has ignored this requirement (probably due to the Bush Administration's ideological opposition to the credit). IRS could be directed to plan a Child Care Tax Credit campaign next year.

Effect of Child Care on National Policy Goals

Child care has implications for many national policy goals, including educational readiness, welfare reform, health care, worker productivity, and even military readiness. A study or paper acknowledging the importance of child care to achieving these goals would signal to those working on these issues to consider child care needs as they develop policy. It would also demonstrate to child care advocates that the Administration has a sophisticated understanding of the issue. Alternatively, the White House could coordinate a day, similar to the national service day this week, on which several cabinet secretaries do child care events -- Les Aspin could visit a military center, Robert Reich an employer-sponsored center, etc.

Presidential Speech

At an appropriate time, the President should make a speech on early childhood investment issues, perhaps at the unveiling of the parenting initiative. The speech should include a discussion of the importance of child care. Alternatively or additionally, a speech on economic issues could include references to the role child care plays in ensuring a productive workforce.

Articulation of Policy

We might put together a fact sheet on child care policy drawing attention to everything the Administration has done or plans to do to support child care. This fact sheet would be widely circulated, through national organizations, to child care providers across the country.

MEMORANDUM

DATE: 23 December 1992

TO: Melanne Verveer
Maggie Williams

FROM: Jim Weill JDW

Enclosed FYI is a list we have given Donna Shalala reflecting our views regarding key targeted budget increases for next year. (We have also given the HUD and DOL numbers, but not the whole memo, to Cisneros and Reich, respectively.) We did this because we understand agency numbers will be due at OMB soon after the beginning of the year.

Also enclosed is a list of phone numbers where you can reach us over the holidays.

Happy holidays!

The Children's Defense Fund will be closed from December 24th, 1992 until January 4th, 1993. In case of an urgent situation, following are phone numbers for certain senior staff members:

MaryLee Allen, Director of Child Welfare

12/24 - 12/27:	304/947-7502
12/28 - 1/3:	202/547-4973

Sharon Daly, Director of Government & Community Affairs

12/24 - 1/3:	301/432-4830

Cliff Johnson, Director of Family Support

12/24 - 12/27	202/537-0967
12/27 - 12/29	304/258-4500 (if calling from outside D.C.)
	301/424-1232 (if calling from D.C.)
12/30 - 1/3	202/537-0967

Olivia Golden, Director of Programs & Policy

12/24:	202/662-3559 or 202/265-3204
12/25 - 12/27(pm):	413/549-1222
12/27(pm) - 12/29:	617/489-3294
12/30 - 1/3:	202/265-3204

Carol Regan, Director of Health

12/24 - 1/3:	202/526-4281

Paul Smith, Director of Research

12/24 - 1/3:	301/587-6329

Jim Weill, General Counsel

12/24 - 12/26(pm):	212/876-3350
12/26(pm) - 1/1:	202/483-5645
1/2 - 1/3:	215/692-3446

Helen Blank, Senior Child Care Associate

12/24 - 12/25:	301/656-1780
12/26 - 1/2:	813/472-5774
1/3:	301/656-1780

MEMORANDUM

December 14, 1992

TO: Wendell Primus
FROM: Helen Blank and Nancy Ebb
RE: Child Care Administrative Issues

This memorandum lays out some important regulatory, structural, and coordination issues to consider in ensuring that Health and Human Services effectively carries out the child care policies of the new administration.

Regulatory Improvements

The most important action to immediately improve federal and state relations around child care is to change several regulations that impede states' ability to improve the quality of child care and "streamline" child care services. A memo concerning such changes is attached.

Sending a New Signal About Child Care Goals

The tone of regulations promulgated by the previous administration place a heavy -- sometimes virtually exclusive -- emphasis on parental "choice" above even minimal health and safety of children. Of course, without financial access and quality, choice is often illusory. While it is difficult to "reverse" tone, it will be key to have the new Administration's federal and regional child care staff signal a new approach through both personal contact and perhaps action transmittals. For example, the Administration could send an AT setting out recommendations for ensuring and improving the quality of care for children enrolled in Block Grant, "At-Risk" Transitional, and Family Support Act-funded child care.

Regional office staff will also need to be briefed on the change in attitude toward child care as a result of the new Administration, and encouraged to be much more supportive of creative state approaches that help improve child care for children.

Coordinating and Strengthening Administration of Child Care and Head Start Programs

Currently, child care programs are not effectively coordinated with each other, or with Head Start. Administration of child care programs is fragmented. Authority over the largest program, the Child Care and Development Block Grant, was moved to ACYF from Office of Family Assistance, but the staff running the

CHILD CARE REGULATORY ISSUES

The following regulatory improvements can make an immediate difference and send an important signal about the new Administration's concern for child care:

o **Allowing states to pay higher rates for higher quality care under the Child Care and Development Block Grant.** Although the Block Grant provides that states must set payment rates that take into account variations in the costs of providing child care in different settings, federal regulations prevent states from complying with this statutory mandate. Regulations require states to pay formal and informal caregivers identically (with a maximum 10 percent variance) even if they are subject to different regulations (such as training requirements, health and safety provisions, staff-child ratios, etc.) and are therefore not providing child care services of equal quality. If there are truly differences in the cost of providing care due to the different nature of the care provided, then the rates should be allowed to reflect these actual cost differentials, rather than an arbitrary capped variance. The statute does not support this regulatory policy.

o **Giving states the flexibility to pay for high quality child care.** High quality child care that provides children with opportunities for early education and child development, and that helps link their families with other essential services can make an enormous difference in the child's well-being and learning readiness. Yet federal regulations frustrate states' ability to obtain such care for the most low income children by artificially limiting states' ability to obtain federal matching funds to pay for such care. States can only obtain federal funds up to the 75th percentile of the local market rate under Title IV-A, which provides child care for AFDC children and former AFDC children, and cannot use funds from other child care programs to supplement Title IV-A rates above the 75th percentile. Some states want the option to pay higher rates where necessary and appropriate in order to increase the availability and quality of care. Particularly because the 75th percentile is wholly a regulatory creation, and not even a concept that had previous acceptance in the child care world, states should be allowed to set market rates that are higher than the 75th percentile so long as they can demonstrate a need to do so.

o **Ensuring that "At Risk" child care funds can be spent to help low-income children.** The At Risk child care law allows states to carry over unexpended child care funds from one year to the next. However, federal At Risk regulations limit states' ability to carry over and ultimately expend At Risk child care funds. Since a number of states did not spend their initial full allotment under At Risk due to delayed startup, as well as difficulties providing state matching funds in a recessionary economy, the restrictive regulations endanger availability of these funds for poor families. Federal regulators take the position that their regulations were required by the language of the statute, but it is possible to interpret the statute to allow states to carry over and expend unused At Risk funds. HHS should examine the viability of such an interpretation.

o **Ensuring that parents whose care is paid for through the Child Care and Development Block Grant have a real choice of contracts or vouchers.** The Child Care and Development Block Grant statute requires that parents be given a choice of either child care that is paid for through a contract or grant to a provider, or child care that is paid for with a certificate. The availability of contracted care is extremely important, since contracts for child care are a reliable, predictable form of payment that encourages providers to locate in low-income neighborhoods that might not otherwise have a stable funding base for child care. But federal regulations proceed to undercut this provision by taking the position that the offer of a certificate alone meets the intent of the Act, since a certificate can be used with any provider, including one that also offers contracted slots. This regulatory interpretation is not in conformity with the statute and should be reversed.

o **Equitable treatment for working AFDC parents.** Historically, AFDC working families have been able to claim reimbursement for their child care expenses through the child care disregard. Since 1981, the amount that families can claim under the disregard has been capped by statute. The Family Support Act created a child care guarantee for AFDC families that need child care for employment, education, and training. States can pay far more favorable rates under the child care guarantee, and in many instances have chosen to do so. In some instances, working AFDC parents get the benefit of higher rates under the child care guarantee but in others they are relegated to the child care disregard, with its often significantly lower limits.

HHS regulations take the position that states can choose to supplement the disregard so that the disregard rate is comparable to other rates paid for AFDC child care, but the regulations do not require such a supplement. The result is that many working AFDC parents are relegated to lower-cost, lower-quality child care. Building on the longstanding AFDC regulatory principle that similarly situated recipients should be equitably treated, and also recognizing that money paid for child care over and above the disregard is money taken away from food and rent, regulations should require that states either supplement the disregard rate so that it is equivalent to the child care rate paid for AFDC care paid for under the child care guarantee, or make other forms of payment (such as vouchers and contracts) at the higher rate available to working AFDC parents.

o Clarifying that the IV-A child care guarantee applies to all AFDC families participating in appropriate education and training. HHS regulations interpreting the Family Support Act child care guarantee encourage states to take an inappropriate and illegally narrow approach to the guarantee. This takes two forms: states believe that they can deny child care to non-JOBS AFDC recipients, even if those recipients are participating in appropriate education or training programs (such as community college); and states have limited access to JOBS services for families with child care needs, or even (in Massachusetts) have attempted to deny child care to families already in the JOBS program even though those families demonstrably need care. Unlike a number of the other issues outlined in this memorandum, this problem could probably be resolved quickly through an Action Transmittal rather than by regulatory change.

o Allowing coordination of sliding fee scale policies for very low income families. States cannot coordinate their sliding fee scale co-payments for very poor families because regulations interpreting the Family Support Act provision that families must contribute to Transitional Child Care based on ability to pay take the position that even the poorest families must make **some** contribution, even if it is a token one. Other programs allow states to exempt the poorest families from such a contribution if they determine that the families cannot afford to pay. Such a policy is consistent with the Family Support Act provision that the contribution should be based on ability to pay, and should be allowed for Transitional Child Care as well as for other programs.

o Authorizing automatic eligibility determinations for Transitional Child Care. Federal regulations require that states provide TCC only if there has been a request -- a provision that is not required by the statutory language, and that some states believe is a barrier to providing TCC. States should be given the choice of automatically determining continuing eligibility.

o Facilitating coordination between Head Start and IV-A Child Care. Even if legislation increases funds to pay for Head Start on a full-day, full-year basis, there probably will be continuing need to use IV-A child care funds to provide "wrap-around" care to ensure that AFDC children who need full-day care can take advantage of Head Start. Current administrative guidelines for combining Head Start and IV-A funds are cumbersome and discourage pairing of funds rather than facilitating creative program combinations. The Bush Administration has been unwilling to consider recommendations offered by the National Head Start Association concerning simplification of guidelines. These recommendations should be pursued, and a resolution can be arrived at quickly because guidelines rather than regulations are at issue.

MEMORANDUM

December 14, 1992

TO: Wendell Primus
FROM: Nancy Ebb
RE: Office of Child Support Enforcement

This memorandum outlines some of the key administrative and regulatory issues that should be addressed to improve OCSE performance.

Regulatory Improvements

While a number of regulatory improvements can be made, two in particular can have a profound effect on program performance:

o **Establish staffing standards for state child support enforcement agencies.** Federal statute directs the Secretary of Health and Human Services to "establish minimum organizational and staffing requirements for State units engaged in carrying out" their child support enforcement responsibilities. 42 U.S.C. Sec. 652(a)(2). Despite this requirement, the Secretary has never published minimum staffing standards.

Many state child support enforcement agencies perform very poorly, in part because they are so woefully understaffed. An informal HHS audit of a sample of West Virginia cases, for example, found that in one office there were three paralegals to work 3,500 cases. Such overwhelming caseloads are not uncommon. While many other reforms are essential before the system can work well, setting staffing standards that ensure there are enough workers to process cases is a key step, whether child support services continue to be delivered at the state level or are eventually moved to a federal agency. As discussed below, these staffing standards should include training standards.

o **Publish audit standards for state child support enforcement performance standards.** The Family Support Act of 1988 required the Secretary of HHS to establish time limits within which states must provide child support services. Sections 121(b), 122 of P L 100-485. The requirement for time standards was important because many child support cases languish for excessive periods of time in the system. Although they are reported as active cases, services are either not provided, or are provided so slowly that case information becomes outdated and the cases become workable. The time standards hold great promise as a way to hold states accountable. Unfortunately, although HHS did publish final regulations, they are not being enforced.

On August 4, 1989, HHS published a final rule establishing timeliness standards for program operations. 54 Fed. Reg. 32284. In the preamble to the final regulations, HHS indicated that the agency also was in the process of revising audit regulations to address the new program standards, and intended to publish a final audit regulation before the program standards took effect October 1, 1990.

However, HHS has neither published audit regulations on the timelines, nor ever required states to report data on their compliance with the timelines regulations. Thus, although the timelines requirements are in effect in theory, HHS audits do not assess state compliance. There are no other published data to measure whether states are in compliance, so there is no way to monitor the issue or hold states accountable for their failure to provide timely services to children who need them.

Two other regulatory improvements can make an important difference as well:

o Ensuring that states aggressively pursue medical support enforcement. Although federal statute required the Secretary to promulgate medical support regulations under which states must pursue an order of medical support as well as cash support when health insurance is available to the absent parent at reasonable cost, HHS regulations implementing this requirement are often honored only by their breach. An informal HHS review of sample Maryland child support cases, for example, found that "[t]here is no attempt made by the IV-D agency to enforce the health insurance coverage required by the support order. There is no monitoring of whether the AP [absent parent] acquires the health insurance or not."

Failure to obtain medical support hurts children by denying them needed health benefits (children in female-headed single-parent families are statistically very likely to lack access to coverage), and costs HHS money when Medicaid benefits are provided without any offsetting reimbursement from the absent parent's health plan. A General Accounting Office report estimates that Medicaid is paying at least an estimated $122 million a year in medical expenditures that might be paid by noncustodial parents' insurance.

While some statutory improvements are desirable (for example, to resolve ERISA questions about the ability of states to reach multiemployer plans, and to require that states have income withholding-like mechanisms for collecting medical support), two administrative improvements recommended by GAO are also key to improved performance:

o establishing minimum steps and time frames states must meet to monitor and enforce medical support obligations; and

o developing outcome-oriented medical support performance standards and monitoring whether they are met.

o **Ensuring that child support enforcement does not put vulnerable children and families at risk.** Federal statute requires AFDC families to assign their rights to child support to the state, and to cooperate in collection efforts unless they have "good cause" not to do so under standards established by the Secretary. 42 U.S.C. Sec. 602(a)(26). While we strongly support aggressive pursuit of child support, we also believe that the good cause exception is an important one, particularly given the serious risk of domestic violence that is especially prevalent at the time of family breakup.

Unfortunately, the regulatory good cause standards are excessively difficult to satisfy, and (as Women's Legal Defense Fund focus groups found) the availability of the good cause exception is often never or at best poorly explained to clients. Nationally, the number of good cause exceptions is so low that it underlines serious problems with how the good cause exception is administered. Moreover, striking differences among states with similar population sizes indicate how unevenly policy is being administered: for example, both Tennessee and Washington state have populations of roughly 4.9 million, but OCSE data indicates there were only 205 good cause claims in Tennessee, and 1,424 in Washington state. Differences this large are troubling and indicate the need for better federal direction about explaining the policy to recipients.

Two improvements should be made: first, there should be a requirement that the availability of the exception is explained verbally as well as in writing (and workers should be trained about the availability of the exception); and second, the standards for how to establish good cause should be revisited, so that there are not so many procedural barriers to establishing good cause.

Improving Technical Assistance

Good technical assistance provided at or arranged at the federal level is essential to making child support work better. States need to be encouraged to learn from and adopt innovative models that have succeeded in other states. Unfortunately, at this point the ability of both the central and the regional offices to provide or arrange such assistance is limited. "Technology transfer" contracts that enabled OCSE to match qualified experts with state needs have been discontinued, and other technical assistance-related contracts (such as contracts with the Judicial Education Project and the American Bar Association Child Support Project) have either ended or are about to end. Unfilled staff positions and lack of travel funds limit the ability of the central office to provide technical assistance (although there have been some commendable efforts to provide technical assistance in the absence of resources, such as use of the Child Support Reports newsletter to showcase state innovations and the recent issue of a publication on model state initiatives).

In the past, regional office representatives were responsible for providing hands-on help to particular states, and spent a considerable amount of time in the field doing so. Restricted travel funds and a lack of effective training of regional office personnel about cutting-edge practices now seriously hamper their ability to provide technical assistance.

Particularly if the Clinton Administration retains a state-based approach to child support, it is essential to place greater resources in technical assistance by building up staff capacity, using outside experts where appropriate, increasing travel funds, and bringing regional office representatives up to speed.

Improving Training

Closely related to technical assistance is the acute need for training. Our review of informal audit documents, as well as interviews with selected state administrators about paternity, indicates that many child support workers are not formally trained about what enforcement mechanisms are available, when they are appropriate, or even how to interview a client -- a particularly sensitive issue when dealing with paternity questions. Rather, much of what they receive is "OJT," and the result is that in many instances they use inappropriate enforcement mechanisms, fail to explain to clients the benefits of child support enforcement or how the system works, and alienate potentially cooperative parents. As is the case with technical assistance, funding for training has virtually ended (a training contract with the National Institute for Child Support Enforcement, for example, ended four years ago). The National Training Center continues to do some modest training, but its efforts are hampered because almost no travel money is available for Center trainers.

Training should be improved by:

o Increasing funding for training and travel;

o Use of outside experts and state-based trainers where appropriate;

o Promulgating state staffing standard regulations that include a standard for training, to help ensure that child support workers are adequately trained; and

o Developing a training initiative for AFDC workers. Many AFDC clients are initially confused and ultimately made hostile by a system in which welfare and child support workers coordinate poorly. Although the first contact about child support is often made by an AFDC worker, these workers are often untrained, indifferent to, and sometimes hostile to the child support system. Improved IV-A/IV-D interface is important, and training is an important step in that direction.

Encouraging Child Support Outreach

Although federal administrative matching funds are theoretically available to provide outreach to inform potential clients about the program and to encourage aggressive pursuit of child support (and even though the nature of the issue could attract much free media and other private support), states do very little outreach or public education. The result is that many clients already in the system feel they have little stake in pursuing child support, and many potentially eligible clients never find out that help is available to them.

OCSE should begin by convening a task force of internal and outside experts to identify effective outreach approaches, and then foster innovation by providing technical assistance and demonstration grants in the area. Outreach efforts should focus not only on activity by the state child support enforcement agency, but on involvement of non-IV-D agencies that work with potentially eligible clients and involvement of groups that have the capacity to reach affected populations (such as La Raza or the National Council of Negro Women).

Making IRS Full Enforcement Work

Particularly because the Clinto-Gore campaign proposed to use the Internal Revenue Service to collect child support, it is important to ensure that existing IRS collection mechanisms live up to their potential. The IRS "full enforcement" program, where IRS uses multiple enforcement strategies to collect child support on cases certified to them by state IV-D agencies, is a potentially potent but little-used enforcement mechanism. States hesitate to use it because they are charged a substantial service fee for requesting full enforcement even if it does not produce collection, and because they have received a less than enthusiastic response in most IRS regional offices. A high-level IRS/HHS task force to identify barriers to full enforcement and to set expectations for cooperation could send an important signal that this is a mechanism for IRS to take seriously.

Keeping Automation on Track

The Family Support Act provided 90 percent matching funds for states to automate their child support systems by 1995. Automation is essential to making child support enforcement work. Yet it appears that automation efforts are floundering; administrators and consultants have estimated that 12 - 26 states will not be fully automated by the 1995 deadline. It is important to rigorously review what direction the federal office is providing for state automation efforts; what interim steps should be taken to improve the likelihood that states meet the 1995 deadline; and what legislative or other approach should be taken if states cannot meet the deadline.

Strengthening Regional Offices and Improving Communication

Several state administrators have expressed concerns that regional offices have been "stripped" of resources and travel funding, and are often "out of the loop," lacking authority to provide guidance to state administrators about federal policy. They report that communication between central OCSE and the regional offices is poor. Some resolution of these issues is important to ensure that states get clear guidance and regional help.

✓cc: Melanie

February 26, 1995

To: Hillary Rodham Clinton

Re: recissions by republicans

I think the recent recissions by the House Republicans afford a wonderful opportunity for you to dramatize your concern for children in a higher profile way.

I would suggest a series of visits to school lunches, school breakfasts, child immunization centers, WIC feeding programs, Headstart classes and other children's programs which face cuts in the recission package.

At these events, I would urge you to steer clear of sharp or confrontational rhetoric, but, instead, say that you are here to dramatize for the nation "the good work these programs are doing. Too often these programs are just numbers on a budget spread sheet and I want America to see that these programs are flesh and blood children with empty stomachs. I want us all to realize that the meals these children have here are often the only ones they will have all day that give them proper nutrition. These children and their parents are often not good at speaking out for themselves and I am here to lend them a hand in making their needs known.

I would sidestep criticism of the Republican package by saying that this visit is not "for a political purpose, but for an informational purpose -- to show people in America how important these programs really are."

Q Mrs. Clinton would you like to send a message to the republicans who are trying to cut this program

A I would just ask that they, too, come and visit these programs to see how worthwhile they are.

Q Do you oppose the recissions the House seems about to vote?

A. Any cut in aid to these children would be very bad and I want America to meet some of the mouths that depend on this food.

But stop short of any characterization of the Republicans behind the cuts as meanspirited or bad intentioned. Just defend the program and talk about its useful work and how the cuts will stop some of this useful work from going on. Praise the program, hit the cuts, but don't hit the cutters.

The mammogram and gulf war efforts have done well, but don't reach a large audience. This will, and if the advocacy is positive and pro-children rather than partisan and anti-Republican, it will prove effective both in focusing attention on the cuts and in improving perceptions of you.

Talking Points on Shaw Child Protection Block Grant

- The proposed Child Protection Block Grant will not protect children in crisis nor reform the child welfare system. The amount of the block grant is set at $4.1 billion in FY96 compared with $4.75 billion that would have been available if current programs were continued. Over five years, $5.6 billion of federal funding for state child protection systems will be lost.

- The child protection system today is overburdened and unable to respond adequately to the needs of children. Nearly 3 million children - over 4% of America's children - were the subjects of abuse and neglect reports in 1993, a nearly 25% increase from 1988; 40% of the reports were substantiated, affecting 1 million children. Over one thousand children die each year from maltreatment.

  During that same period, foster care caseloads increased by almost 50%, reaching 440,000 children in foster care at the end of 1993. Close to 25% of children entering foster care are under age one, and many were exposed to drugs prenatally.

- Capping foster care and adoption assistance payments eliminates a critical safety valve for the states. State laws appropriately require courts to place children in foster care when they will not be safe at home, and placement is affected by many unpredictable factors such as population growth and poverty, economic dislocation, parental drug use and the numbers of abused and neglected children being identified.

  Other parts of the Personal Responsibility Act, which reduce funds for AFDC, SSI and other programs that provide basic support to society's vulnerable children, may also increase the numbers of children needing protection and state care.

- Eliminating adoption assistance payments and including them in a capped block grant could lead to sharp cutbacks in efforts to recruit adoptive parents and place children in adoptive homes.

- The proposed use of a funding formula which allocates funds to states based on past claims of Federal dollars severely disadvantages States that have growing needs or that are only beginning to reform and improve their systems. Given limited resources and burgeoning need for protective intervention and foster care, few resources will be available for critical services that promote improved outcomes for children: community-based prevention and permanency.

- Under this proposal, more states may come under court supervision of their child protection systems. In the past few years, courts in 22 states and the District of Columbia have found that the child welfare system violates state and federal laws for protecting abused and neglected children. Courts have found that many reports of child abuse are not investigated, children in foster care lack case plans and in some instances even have no caseworker, children are not provided with basic care and children under agency care continue to be abused both at home or in foster care.

- The proposal virtually eliminates Federal accountability and enforcement mechanisms. Local citizen review boards authorized in the bill have no enforcement powers and the bill specifically prohibits federal enforcement of any provisions of the Block Grant that relate to protecting children, even if a state is not complying with any of the activities it certified it would carry out.

Eliminating The IV-E Entitlement Will Greatly Increase Risk To Children And Prevent System Reform

In 1993, 3,000,000 children, more than 3% of America's children, were reported as abused or neglected. Nearly half a million children were living in foster care because they could not be cared for in their own homes. Between 1988 and 1993 the rate of substantiated child abuse and neglect rose by more than 25% and the number of children in foster care increased by almost 50%. There is unanimous agreement that the current child welfare system is unable to respond adequately to the needs of these vulnerable children. While many states have substantially improved their child protection systems since the passage of the Adoption Assistance and Child Welfare Act of 1980, in many states the response to the often life-threatening conditions in many young victims lives still is unorganized, underfunded, and completely inadequate, as evidenced by the fact that over 20 percent of the states are under court orders to correct major inadequacies in their child welfare systems. Courts have found that states do not respond promptly to abuse reports, child protection workers have excessively high caseloads, in some instances children do not even have caseworkers. Most troubling, children under agency care continue to be abused, both at home and in foster care.

In order to deal with this crisis, states need adequate resources to investigate reports of abuse promptly, so that children do not remain in life-threatening situations. They need services for parents and children that would enable more children to remain safely in their own homes. They need resources to provide treatment for children in foster care who have susbstantial emotional problems and educational needs. And they need funds for programs that help prevent child abuse, since help should not be available only after a child has suffered from abuse or neglect.

States already lack adequate resources to accomplish these goals. Ending the state entitlement to IV-E maintenance and administration and placing the IV-E program into the block grant would greatly exacerbate this already bad situation. Under the block grant approach, it is estimated that by the year 2000 a third less funds will be available to states. Many states will be forced to make untenable choices regarding which programs to cut.

While a block grant theoretically allows states to allocate funds among different programs, in fact a state may not be able to control its foster care costs. State laws appropriately require the placement of children into foster care when they will not be safe at home. The number of children who need such care is, to a large degree, unpredictable. Unless there is a dramatic decline in the number and seriousness of abuse and neglect reports, something no one envisions, foster care maintenance payments will continue to grow. They will consume a larger and larger share of the available monies in the block.

As a result, less funds will be available to support other critical activities: investigation of reports of abuse or neglect, provision of services to maintain children in their homes, subsidization of the adoption of children who need new families, and prevention activities.

The loss of prevention programs and family support\ family preservation programs will mean that more children will be abused or neglected. This will put even more demands on the foster care system. In order to maintain funding for such programs, states would be forced to leave children in life-threatening situations.

It has been argued that block granting will free-up funds now spent on unnecessary bureaucratic tasks to meet federal requirements. But as the Deputy Director of New Jersey's Department of Human services recently testified before Congress, "the potential for achieving economies under a block grant while maintaining the current level of child welfare services would be minimal at best."

Issue 3. Without Some Level of Federal Enforcement of Basic Protections Many States Will Not Improve Their Systems. Citizen Review Panels Are Not A Substitute For A Federal Role.

Questions:

* Virtually every witness who testified before this Committee, including all of the current and former state and local officials, indicated that a strong, but modified, federal role, was needed to make the state systems work. Why have you chosen to totally ignore their wisdom and eliminate the federal role?

* What are the specific regulations you consider are inappropriate for federal enforcement and have repealed?

* Because of the failures of state and federal enforcement of existing laws, many state welfare systems are now under court supervision. Your proposal provides no means of enforcement of federal law, other than through lawsuits? How can you so severely reduce the protections guaranteed to the nation's most vulnerable children foster care when these systems are so clearly in need of supervision?

* Do you favor a system which entails substantial court supervision of these systems?

* Your citizen review panels would have no authority to make states comply with federal standards. Isn't it totally irresponsible of Congress to eliminate all federal enforcement of its laws, in light of the extensive evidence of non-compliance with both state and federal laws?

* In a recent investigation, the Inspector General found 253 health and safety violations in 116 randomly selected foster care facilities in 5 states. These included violations of fire codes and unsanitary conditions. If a parent or a foster care review board member found gross violations that threatened children's health and safety, would your legislation forbid the Secretary from investigating?

* Just recently the state of Utah entered into a consent decree in a lawsuit challenging the adequacy of its child welfare system. It agreed to make massive changes in the system. Yet according to an editorial

in the Salt Lake Tribune praising the lawyers who brought the suit "before the lawsuit was brought at least a half-dozen studies of the state's child welfare system had reported on the system's inadequacies" including audits by the Department and reports by a citizen advocacy group. Shouldn't we learn from this that federal protections must be made meaningful, not abandoned?

Talking Points on Child Welfare

The Vision for Child Welfare:

- The Administration supports a vision for child welfare where:
  - The first priority of child welfare services is to ensure the safety of children and all family members.
  - All services build on the resources and strengths of families to support children's healthy development.
  - The community is the first line of support for families. While a strong public child welfare system exists, families have access to all kinds of informal family support services in neighborhoods and settings that feel comfortable and are easily accessible.
  - All communities offer a continuum of child welfare services, from early prevention to foster care, reunification, and adoption. Because children's healthy development is at the center of all decisions, children spend as little time as possible between permanent settings, returning home or to a loving adoptive family as quickly as possible.

Critical Issues:

- Given increasing need and inadequate current funding in the child welfare system, capping the amount of resources available to states for foster care maintenance and adoption assistance payments would greatly increase risk to children.
  - Between 1988 and 1993, the rate of substantiated child abuse and neglect rose by more than 25% and the foster care caseload increased by almost 50%, as states responded to increased and more severe family need. Adoption assistance payments more than doubled from 1988 to 1994 as states placed more children into permanent homes. These and other factors contributed to a tripling of Federal resources available to the states for child welfare from 1988 to 1993.
  - There is widespread agreement that the current child welfare system is overstretched in responding to current and anticipated future needs. According to Michael Petit of the Child Welfare League in testimony before the Ways and Means committee, "...the nation's response to the often life-threatening conditions in many young victims' lives is unorganized, underfunded, and completely inadequate."
- Strong Federal enforcement of basic protections for children is critical to ensuring improvement in State systems. At the same time, the Federal role must be revamped to focus on outcomes rather than process, as in the revised monitoring approaches that we are currently developing and piloting.
- The allocation of resources across states raises major issues of fairness and incentives for future investment. Any approach that allocates resources to States based on existing claims penalizes the States that may need resources the most because they have not yet made major investments in their systems and may disrupt current State commitments to make major infrastructure commitments to computer systems and training.

Chil l Welfare and the Clinton Administration:

- To achieve the vision of a quality child welfare system will require both strong national leadership and increased State flexibility. The Administration is working in partnership with the States to support continuous improvement in child welfare services by:

  - Encouraging comprehensive planning that reaches across programmatic and agency lines and that includes community-based providers and consumers;

  - Paying increased attention to outcomes, including efforts to reengineer monitoring to focus on the quality and results of State services, rather than on mere paper compliance;

  - Helping State and local programs succeed, through the provision of improved and expanded training and technical assistance; and

  - Supporting the development and implementation of State automated child welfare information systems, to support caseworkers, managers and policy-makers.

BUDGETARY IMPACT OF SHAW CHILD PROTECTION BLOCK GRANT PROPOSAL

Current law estimates as compared to proposed block grant: Outlays in $ millions

13-Feb-95	FY 1994 Actual	FY 1995 Estimate	FY 1996 Baseline	FY 1997 Baseline	FY 1998 Baseline	FY 1999 Baseline	FY 2000 Baseline	5-year Total
IV-E Foster Care	$2,655	$3,118	$3,506	$3,740	$4,090	$4,471	$4,884	$20,691
IV-E Adoption Assistance	314	407	475	519	562	608	658	$2,822
IV-E Independent Living	61	71	70	70	70	70	70	$350
IV-B Child Welfare Services	267	304	301	308	318	328	338	$1,592
IV-B Family Preservation/Support	1	67	148	212	237	253	263	$1,112
IV-B Research and Demonstration	5	6	6	6	7	7	7	$34
IV-B Training	4	4	4	5	5	5	5	$24
CAPTA Commun. Family Resource Program	7	10	29	31	33	34	35	$162
CAPTA State Grants	17	22	23	23	24	25	26	$120
CAPTA Discretionary	12	16	15	15	16	17	17	$81
Family Violence Prevention and Services	24	28	32	34	35	36	37	$173
Social Services Research	10	15	15	15	16	16	17	$79
Abandoned Infants	12	15	14	14	15	16	16	$76
Adoption Opportunities	10	12	13	13	14	14	15	$69
Family Support Centers	3	10	7	8	9	9	9	$43
Family Unification Program (HUD) /a	77	76	78	81	83	86	88	$416
Missing and Exploited Children (DoJ) /a	7	7	7	7	7	8	8	$37
Children's Advocacy Centers (DoJ) /a	2	3	3	3	3	3	3	$16
Prosecution of Child Abuse (DoJ) /a	1	2	2	2	2	2	2	$8
Total, Child Welfare programs	$3,489	$4,192	$4,749	$5,107	$5,544	$6,006	$6,498	$27,905
Shaw Block Grant Level /a			$4,145	$4,308	$4,471	$4,631	$4,789	$22,344
Difference			*-$604*	*-$799*	*-$1,073*	*-$1,375*	*-$1,709*	*-$5,561*
Percent lost			*-13%*	*-16%*	*-19%*	*-23%*	*-26%*	*-20%*

FY 1994 figures are actual outlays. All other Figures are based on Administration baseline projections.

/a Assumes all funds outlay in the year they are appropriated.

Total funding losses that would result from implementation of Shaw Child protection block grant

SUMMARY BUDGET TABLE FOR SHAW CHILD PROTECTION BLOCK GRANT

This table summarizes the likely budgetary impact of the Shaw proposal to block grant child welfare programs. As reflected in the table, between FY 1996 and FY 2000, states will lose almost $5.6 billion, or 20 percent of their funding.

Notes:

1. FY 1994 levels are actual expenditures. Levels for FYs 1995-2000 reflect projected outlays based on the President's current services baseline.

2. CAPTA Community Based Family Resource Program (CBFRP) was first funded in FY 1995 as a consolidation of three programs: the Emergency Protection Grants Program; the CAPTA Community-Based Prevention Program; and the Family Resource and Support Center Program. The FY 1994 level reflects the sum of the levels for the three consolidated programs.

Talking Points Child Care

Key themes

1. Families struggling to become self-sufficient need access to affordable child care in order to participate in education, training and work.

o Studies indicate that when child care arrangements break down, families are more likely to drop out and go back on welfare.

o More than 400,000 children each month receive child care assistance through the AFDC and Transitional Child Care guarantees. Assistance for these children and their families is in jeopardy if child care funds are capped. If women are forced to work without adequate child care, **their children could be left home alone.**

2. Families should not have to go in the welfare line to get child care assistance.

o Almost one million children of working poor families receive assistance through the At-Risk and Child Care and Development Block Grant Programs. If child care funds are capped, these hard working American families could be cut off and put at-risk for welfare dependency.

o Millions of other working families are already in need of child care assistance. Low-income families who pay for child care spend more than a quarter of their income on child care expenses. GAO found long waiting lists for child care assistance in 5 out of 5 states they visited. For example they found 40,000 children on the waiting list in Texas and 225,000 children in California.

3. The quality of care is far from adequate. Poor quality care threatens childrens' development. The recent study conducted by economists and child development experts confirms that quality care is related to child outcomes. The vast majority of care in the country was found to be mediocre, with 40 percent of infant care considered poor.

Child Care and the Clinton Administration

o The President has included increases in child care in every budget submitted to Congress. Furthermore, the Work and Responsibility Act introduced last year included the continuation of the child care guarantees for families moving towards economic independence and an investment of $1.5 billion for working poor families at-risk for welfare dependency.

o The administration has worked to make programs more consistent and coordinated: proposing new regulations to reduce red tape, improve quality, and give states more flexibility and streamlining child care operations into a single Child Care Bureau.

o The administration has revamped and strengthened technical assistance to the states, territories and tribes to ensure that they have access to the best available information on quality issues, particularly health and safety. In addition, we have launched a National Child Care Information Center for policymakers and the general public.

ESTIMATED REDUCTION IN FEDERAL SPENDING FOR CHILD CARE FROM PROPOSED CHILD CARE BLOCK GRANT
(Numbers in millions)

ESTIMATED REDUCTION IN FEDERAL SPENDING UNDER CHILD CARE BLOCK GRANT USING HHS BUDGET AUTHORITY BASELINE FIGURES	1996	1997	1998	1999	2000	5 Year Total
AFDC/JOBS	734	784	829	869	911	4,127
TCC	220	234	248	260	272	1,234
At-Risk	300	300	300	300	300	1,500
CCDBG	1,049	1,049	1,049	1,049	1,049	5,245
Child Devment Associate Scholarships	1	1	1	2	2	7
Dependent Care Planning and Devment Grants	13	14	14	14	15	70
Native Hawaiian Family Centers (CBO est.)	5	5	6	6	6	28
SUBTOTAL HHS BASELINES	2,322	2,387	2,447	2,500	2,555	12,211
CHILD CARE BLOCK GRANT	1,943	1,943	1,943	1,943	1,943	9,715
REDUCED SPENDING FOR CHILD CARE	-379	-444	-504	-557	-612	-2,496
PERCENT REDUCTION IN SPENDING	-16%	-19%	-21%	-22%	-24%	-20.4%

Notes:
1. This Child Care Block Grant freezes funding at the FY1994 levels estimated in CBO's baseline.
2. The numbers above are HHS estimates based on baseline figures from the President's FY1996 budget except for the Native Hawaiian Family Centers estimate which is from the CBO baseline.
3. CBO estimates were based on January 1995 CBO Baseline figures. They estimate five year savings of $1.7b or a 15 percent reduction in spending. These differ from HHS estimates due to baseline differences.
4. Savings projected by the EEO committee are based on CBO baseline figures.

Total funding losses that would result from implementation of Shaw child care block grant

	LOSS IN FEDERAL CHILD CARE ASSISTANCE FROM BLOCK GRANT	REDUCTION IN CHILDREN RECEIVING FEDERAL CHILD CARE ASSISTANCE
ALABAMA	$11.3	6,970
ALASKA	$1.5	930
ARIZONA	$10.3	6,350
ARKANSAS	$4.6	2,840
CALIFORNIA	$53.7	33,130
COLORADO	$6.3	3,890
CONNECTICUT	$7.0	4,320
DELAWARE	$1.9	1,170
DISTRICT OF COLUMBIA	$1.8	1,110
FLORIDA	$25.7	15,850
GEORGIA	$21.2	13,080
HAWAII	$2.0	1,230
IDAHO	$2.4	1,480
ILLINOIS	$22.1	13,630
INDIANA	$12.3	7,590
IOWA	$4.8	2,960
KANSAS	$6.4	3,950
KENTUCKY	$10.6	6,540
LOUISIANA	$11.3	6,970
MAINE	$2.0	1,230
MARYLAND	$11.1	6,850
MASSACHUSETTS	$16.3	10,060
MICHIGAN	$15.2	9,380
MINNESOTA	$11.1	6,850
MISSISSPPI	$6.6	4,070
MISSOURI	$12.0	7,400
MONTANA	$1.9	1,170
NEBRASKA	$5.0	3,080
NEVADA	$1.9	1,170
NEW HAMPSHIRE	$2.1	1,300
NEW JERSEY	$10.5	6,480
NEW MEXICO	$5.3	3,270
NEW YORK	$37.0	22,830
NORTH CAROLINA	$27.7	17,090
NORTH DAKOTA	$1.5	930
OHIO	$28.9	17,830
OKLAHOMA	$11.3	6,970
OREGON	$8.8	5,430
PENNSYLVANIA	$24.2	14,930
PUERTO RICO	$7.7	4,750
RHODE ISLAND	$2.7	1,670
SOUTH CAROLINA	$7.9	4,870
SOUTH DAKOTA	$1.5	930
TENNESSEE	$16.8	10,360
TEXAS	$44.4	27,390
UTAH	$6.8	4,190
VERMONT	$1.6	990
VIRGINIA	$11.3	6,970
WASHINGTON	$16.4	10,120
WEST VIRGINIA	$4.5	2,780
WISCONSIN	$10.1	6,230
WYOMING	$1.4	860
TRIBES	$18.4	11,350
TERRITORIES	$3.1	1,910
ALL STATES	$612.0	377,480
Percent Reduction	24.0%	

Notes:
1. The block grant amount is set at FY1994 CBO Baseline levels.
2. Funds are allocated according to HHS figures on FY1994 expenditures and allocations.
3. FY2000 figures are FY1994 allocations and expenditures adjusted by the national growth rate figures.
4. Children served was determined by dividing total federal allocations and expenditures by an average federal expenditure figure of $1621. This is not a full-time equivalent.
5. Numbers may not excatly equal national figures due to rounding.

REDUCED FEDERAL CHILD CARE ASSISTANCE FOR STATES AND CHILDREN IN FY 2000

Thi: table shows FY 2000 losses in funding and in numbers of children receiving federal assistance und :r the new child care block grant.

FU IDING LOSS

The funding loss is the difference between the FY 2000 block grant distribution and the expected FY 200) funding level under current law. FY 2000 funds are distributed according the proportion of fedi ral child care funds received in FY 1994, as is proposed in the draft EEO bill.

REI UCTION IN CHILDREN RECEIVING FEDERAL CHILD CARE ASSISTANCE

The reduction in children is derived from the State's funding loss and the national average child care fun ing per child. Average funding per child was calculated by dividing the total federal child care fun ing in FY 1993 by the total number of children served through federal child care programs in that year. This number is not a full-time equivalent cost. It does not contain state or parent con ibutions to the cost of care. The FY 1993 funding per child was inflated to Fy 2000 according to tl e HHS baseline.

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

FEB 13 1995

The Honorable E. Clay Shaw
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives
Washington D.C. 20515

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for welfare reform legislation under consideration by the House Ways and Means Subcommittee on Human Resources.

The Administration shares the commitment of the Congress and the American people to real welfare reform that emphasizes work, parental responsibility, state flexibility, and the protection of children. Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994, which embodied these values. It imposed tough work requirements while providing opportunities for education, training, child care and supports to working people. It included a stringent set of child support enforcement provisions. It required each teen mother to live at home, stay in school and identify her baby's father. It increased state flexibility without sacrificing accountability. And it maintained a basic structure of protections for children.

The Administration looks forward to working cooperatively with the Congress in a bipartisan way to pass bold welfare reform legislation this year. The Administration has, however, serious concerns about a number of features of the Chairman's mark that appear to undermine the values to which we are all committed. The Administration seeks to end welfare as we know it by promoting work, family and responsibility, not by punishing poor children for their parents' mistakes. Welfare reform will succeed only if it successfully moves people from welfare to work.

Work

For years, Republicans and Democrats alike have agreed that the central goal of welfare reform must be work. That is still our goal: People who can work ought to go to work and earn a paycheck not a welfare check. The Administration believes that no adult who is able to work should receive welfare for an unlimited time without working. The Administration believes that from the first day someone comes onto welfare, he or she should be required to participate in job search, job placement, education, or training needed to move off welfare and into a job quickly. It is government's responsibility to help ensure that the critical job placement, training, and child care services are provided. Individuals who are willing to work should have the opportunity to work and not be arbitrarily cut off assistance.

The Administration therefore has serious concerns about the Chairman's mark before you:

- It eliminates requirements that recipients participate in job search, education, work or training as a condition of receiving welfare, and ends any responsibility of state welfare systems to provide education, training and placement services to move recipients from welfare to work. The proposed legislation effectively repeals the bipartisan Family Support Act signed by President Ronald Reagan in 1988.

- The proposed legislation includes only minimal and unenforceable requirements that recipients work. The bill requires only that persons on the rolls for more than 2 years engage in "work activities" loosely defined by the state welfare bureaucracy, rather than a real work requirement. The proposed participation standards are very low. In many ways, the work requirements are even weaker than those in current law.

- The proposed legislation provides no assurance of child care to recipients who work or are preparing to work--even if a state requires them to participate. It offers no promise of child care for those who leave welfare for work or for those who could avoid falling onto welfare if they had some help with child care. While it repeals provisions of existing law that provide funding for child care, this bill is silent on whether any additional funds will be available for subsidized child care for low income working families.

- The proposed legislation repeals the current rule that anyone who leaves welfare for work can receive Medicaid for an additional year to ease the transition. This would further reduce health care coverage and make it harder for people to move from welfare to work.

- The proposed legislation would deny all cash assistance to families that have received assistance for more than five years, even if the adult in the family is unable to find a job or prevented from holding a job because of illness or the need to care for a disabled family member. Children would be seriously jeopardized even if their parents cannot find any work.

The Administration supports an alternative approach that would genuinely transform the welfare system into a transitional system focused on work. It would have strict requirements for recipients to participate in and clear responsibilities for states to provide education, training and placement assistance; it would have serious time limits after which work would be required; it would ensure that children would not be left alone when parents were working by providing assistance for child care; it would put parents to work, not just cut them off; and it would ensure that children can expect support from two parents.

Parental Responsibility

The Administration believes that welfare reform should recognize the responsibility and encourage the involvement of both parents in their children's lives. The Administration considers child support enforcement to be an integral part of welfare reform, particularly because it sends a strong message to young people about the responsibility of both parents to support their children. The Administration was pleased that you had agreed to add child support enforcement to your welfare reform bill, and sorry that your proposals are not yet part of the bill now under consideration. The Administration looks forward to working closely with you on this issue in the coming weeks.

- The only child support provision included in the Chairman's mark is one that allows states to reduce payments to children for the first 6 months if paternity has not been legally established. This provision seems ineffectual and unfair. Even if a mother fully cooperates by giving detailed information identifying the father and his possible location, and even if the state is diligent in pursuing the father, it can easily take 6 months to get paternity legally established. There is no reason why the child should be punished during this period.

The Administration believes that it makes far more sense to deny benefits entirely to any parent who refuses to identify the father or to cooperate in locating him. However, once the mother has done all she can, the family should qualify for aid, and then the state should establish paternity within one year.

The Administration believes that the welfare system should encourage the formation and support of two-parent families. The Administration is therefore concerned about an important omission in the proposed legislation:

- The proposed legislation would encourage the break-up of families by repealing the requirement that states provide cash assistance to two-parent families in which a parent is unemployed or unable to work. It allows states to discriminate against married, two-parent families by treating single-parent families better than two-parent families.

The Administration supports an approach that both encourages the formation of two-parent families and makes sure that both parents take responsibility for children in all cases.

Teen Pregnancy

The Administration and the American people agree that the best reform of welfare would be to ensure that people do not need it in the first place. Welfare reform must send a very strong message to young people that they should not get pregnant or father a child until they are ready and able to care for that child, and that if they do have children, they will not be able to escape the obligations and responsibilities of parenthood. We must be especially concerned about the well-being of the children who are born to young mothers, since they are very likely to grow up poor.

The Administration therefore has serious concerns about the bill before you:

- o The proposed legislation would deny all federal cash benefits for eighteen years to any child born to an unmarried mother under 18, as well as to the parent. This provision appears to punish children for their entire childhood--18 years--for the mistakes of their parents.

- o The proposed legislation does not require that teen mothers live at home, stay in school, and identify the child's father. It weakens requirements in current law, and may make the prospects for mother and child even worse.

- o The proposed legislation establishes only minimal expectations for states to provide services to unmarried parents, and provides no additional funds to support them.

The Administration supports an alternative approach that would require minor mothers to live at home, stay in school, make progress toward self-sufficiency, and identify the father of the child. The Administration also supports a national campaign to prevent teen pregnancy. It is time to enlist parents and civic, religious, and business leaders in a community based strategy to send a clear message about abstinence and responsible parenting. The Administration also supports a state option not to increase benefits for children born to mothers on welfare. This decision should be made by the state, not the federal government.

State Flexibility with Accountability

The Administration embraces the creativity and responsiveness of states, and the opportunities for real reform when states have the flexibility to design and administer welfare programs tailored to their unique circumstances and needs. Already this Administration has granted waivers to nearly half the states for welfare reform demonstrations. National welfare reform should embody the values of work and responsibility in a way that assures taxpayers that federal money is being spent prudently and appropriately. For reform to succeed, the funding mechanisms for welfare should not put children or states at risk in times of recession, population increase or unpredictable growth in demand.

In this context, the Administration has serious concerns about the proposed legislation:

- o The spending cap in the proposed legislation makes no allowances for potential growth in the need for cash assistance because of economic downturn, population growth, or unpredictable emergencies. It could result in states running out of money before the end of the year, and thus having to turn away working families who hit a "bump in the road" and apply for short-term assistance. It could preclude states from investing in job placement, in work programs, in education and training, and in supports for working families.

- o The proposed legislation removes the requirement that states match federal funds with their own state funds. With none of their own money at risk, states will have many fewer incentives to spend the funds efficiently and effectively to improve performance and increase self-sufficiency.

- o The proposed legislation provides virtually no accountability. There are no incentives for good performance and virtually no penalties for failure. There is no provision for the recovery of monies paid out fraudulently or in error. There are no mechanisms for ensuring that states are actually spending the money on needy children rather than on state bureaucracies, or for monitoring whether federal money is being used to help parents gain self-sufficiency, require work, and enforce parental responsibility. Indeed, the federal government is forbidden from taking any meaningful steps to ensure program performance and accountability.

The Administration supports proposals that significantly increase state flexibility but also ensure accountability for achieving national goals. The Administration supports a funding mechanism that will not put children and states at risk down the road, and that enables states to succeed in moving people from welfare to work and in supporting working families. The Administration has significant doubts about the ability of a pure block grant funding mechanism to adequately protect both children and states.

Protection of Children

The Administration recognizes that the protection of children is the primary goal both of cash assistance programs and of child welfare and child protective services. Cash assistance programs assist families to care for children in their own homes. Child protection services help those children who are abused or neglected or at risk of abuse by their parents and who need special in-home services or out of home placements to assure their safety. Strengthening families, and where appropriate, preventing removal of children from their homes also are, key goals of child protection services. There are problems in a number of areas.

Denial of Benefits to Children on AFDC

The legislative proposals that would reform cash assistance have a number of provisions that would put vulnerable children at greater risk.

- As noted above, the legislation would deny cash assistance to children of unmarried minor mothers for their entire childhood, to children born while the parent was on welfare, and to children whose parent had received welfare for more than five years, whether or not a job was available or the parent was unable to work. The funding caps could have the effect of denying cash assistance to children when states used up their allocated funds, for whatever reasons. Children in low income working families, who may be forced onto cash assistance in times of economic downturn, could be most affected.

Child Protection Services

Some of these children could well come into a system of child protection services that is already seriously overburdened and that is failing to provide the most essential services. Reported child maltreatment and out-of-home placements have both been increasing sharply. Many state systems are in such distress that they have been placed under judicial oversight. The proposed legislation responds to these increasingly serious problems by consolidating existing programs that protect children into a block grant with nominal federal oversight. The Administration has serious concerns about this approach.

- The proposed legislation caps spending for child protection programs at a level considerably lower than baseline projections. This could lead to uninvestigated maltreatment reports, and to children being left in unsafe homes with minimal services. It could also seriously hamper states' efforts to improve their child abuse prevention and child protection systems.

- The proposed legislation eliminates the adoption assistance programs, and leaves it up to states whether they will significantly sustain the subsidies that enable many special needs children to find permanent homes, and whether they will honor commitments to those adoptive families that now receive subsidies.

- The proposed legislation virtually eliminates federal monitoring and accountability mechanisms. It makes it impossible for the federal government to ensure the protection of children.

- The proposed legislation is silent on the formula for allocating funds to the states. Because of serious imbalances among the states in spending on child protection, it is hard to imagine a formula that would not disadvantage either states that have been heavy spenders, or states that are only beginning to improve their systems.

Substantial improvements need to be made in the child protection system and in the federal role in overseeing that system. The Administration supports a careful and thoughtful review of the programs before actions are taken that might seriously harm millions of vulnerable children.

)enial of Benefits to Disabled Children on SSI

'he Administration is deeply troubled by the changes proposed in the program designed to elp disabled children--SSI.

- The proposed legislation essentially eliminates SSI benefits for children, with the exception of a small group of children currently receiving benefits. Within 6 months, over one hundred thousand disabled children would lose eligibility for SSI benefits--some would lose medical protection as well. And in the future, no child, no matter how disabled, will be eligible for any cash benefits for SSI, except if cash benefits prevent them from having to be institutionalized. These proposals appear to penalize parents who are determined to care for their child no matter what the economic consequences for the family. SSI recipients are among the neediest and most vulnerable children, in the poorest families.

- Some of the money saved is put into a new block grant for services to disabled children, which would require the creation of a new state bureaucracy to decide on appropriate services. This idea is untested, and no one knows what impact it will have on the most vulnerable of children and the parents who care for them. The 5-year cut off in AFDC for all persons along with the elimination of SSI cash for disabled children may leave these children extremely vulnerable.

'he Administration sees the need for careful reform in this area, with its potential for serious arm to extremely vulnerable children. Last year the Congress established a Commission on :hildhood Disability to look into these issues in consultation with experts from the National ıcademy of Sciences. The Commission will provide its report to the Congress later this ear. The Administration believes prudence dictates waiting for this short time until this ipartisan commission, following a thorough review of all aspects of this important program, as an opportunity to make recommendations.

:enefits to Legal Immigrants

'he Administration strongly believes that illegal aliens should not be eligible for government /elfare support. But the blanket prohibition of all benefits to legal immigrants who are not et citizens is too broad, and would shift substantial burdens to state and local taxpayers. 'hese legal immigrants are required to pay taxes. Many serve in the armed forces, and ontribute to their communities. The Administration strongly favors a more focused pproach of holding sponsors accountable for those they bring into this country and making ıe sponsors' commitment of support a legally binding contract.

n summary, the Chairman's mark espouses goals for the reform of welfare--work, parental esponsibility, prevention of teen pregnancy and state flexibility--that the Administration and he American people share. But the translation of general goals into specific legislation nisses the mark in fundamental ways. The proposed legislation does not represent serious vork-based reform. It does nothing to move people from welfare to work, and it does not equire everyone who can work go to work. It neither holds state bureaucracies accountable ıor cushions state taxpayers against recession. It puts millions of children at risk of serious ıarm. There are alternative approaches to reform that achieve our mutual goals in far more onstructive and accountable ways.

'he Administration reiterates its commitment to real welfare reform and its desire to work ooperatively with Congress to achieve it.

'he Office of Management and Budget advises that there is no objection to the transmittal of his report to Congress.

\ similar letter was sent to Representative Harold E. Ford.

Sincerely,

Donna E. Shalala

c: Members of the Subcommittee on Human Resources

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

FEB 22 1995

The Honorable William F. Goodling
Chairman
Committee on Economic and Educational Opportunities
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This letter expresses the Administration's views on the Chairman's mark for child care consolidation and the repeal of several child welfare programs under consideration by the Committee on Economic and Educational Opportunities.

The Administration believes that both child care and child welfare are important issues for American families, and both issues have a distinguished bipartisan history in the Congress and in this Committee. Child care is of significance to millions of working parents and their children, as well as to those families who are trying to gain a foothold in the labor market. Child welfare services assist millions of our most vulnerable children and families in this Nation each year, often in times of crisis.

The Administration looks forward to working cooperatively with the Congress to pass bipartisan child care legislation and to reform and strengthen the child welfare system. The Administration has, however, serious concerns that a number of the features of the Chairman's mark would undermine the values of work and family to which we are all committed, and might undermine the economic independence of families and the safety and well-being of children.

Child Care

The Administration believes that quality child care is an important component of a welfare reform strategy that is truly about work. Successful child care policy promotes the economic independence of families and children's healthy development; provides parents with real choices among quality alternatives for children of all ages; and encourages continuity of care for the child, regardless of changes in the parent's employment.

Last year, the President submitted a bold welfare reform bill, the Work and Responsibility Act of 1994, which embodied these values. It continued the assurance of child care as families move toward self-sufficiency, and made important new investments in child care for working poor families. At the same time, it extended health, safety, and quality provisions to all the major federal child care programs.

These important supports that enable parents to work and to ensure children's safe and healthy development appear to be missing from the Chairman's mark before you. Therefore, Page 2

the Administration has a number of concerns:

- o The proposed legislation provides no assurance of child care to AFDC recipients who work or are preparing to work – even if a state requires them to participate in work or training. We should and must require all parents to become active and productive workers. And at the same time, we should assist them in their efforts to care for their children so that their children are not left home alone or in unsafe situations.

- o The proposed legislation may require states to choose between serving families making the transition from welfare to work and working families that need child care assistance to keep them from falling onto welfare. With a cap on total funding for child care far below projected spending under current law, and no separate guaranteed source of child care assistance for welfare recipients, the legislation could conceivably reduce assistance by limiting availability to only approximately 200,000 of the million children of hard working American families by FY 2000 currently receiving federal child care support. The Administration believes that we should support working families and that families should not have to go on welfare to receive child care assistance. Moreover, as demonstrated by the waiver applications the Department has received, states which are committed to making AFDC recipients work view child care as an indispensable tool in their efforts.

- o The proposed legislation repeals provisions for children's health and safety contained in the Child Care and Development Block Grant. These provisions were passed with bipartisan support in Congress and signed into law by President Bush after an extensive national debate. They represent a carefully crafted balance between state flexibility and the national interest in children's safety and healthy development. The provisions do not specify any standards at the federal level but instead require that states have such standards in three areas: control of infectious diseases, physical premises safety, and provider training. A study released in the last few weeks reported that most child care is far from adequate and that 40 percent of infant-toddler centers provide poor quality care. We believe that the proposed legislation could increase risks to children's basic health and safety.

- o The proposed legislation also repeals the provision in the Child Care and Development Block Grant that provides resources for quality care, as well as early childhood, before-school and after-school programs. This provision has been instrumental in ensuring that parents have choices among quality alternatives for their children. States have used these resources to build the supply of quality care, provide critical consumer education to parents, improve licensing and monitoring, and increase the training and supports to child care providers. The repeal of this provision raises concerns.

The Administration supports an approach to child care that genuinely supports work for parents, and safety and healthy development for children. Such an approach would assume child care for families moving toward self-sufficiency and expand child care opportunities for working families who want to avoid welfare dependency. We believe that ensuring quality choices for parents, and providing for continuity of services for children and families, should be an element of such a proposal

Child Welfare.

Children become part of the child welfare system because they have been abused or neglected or are in danger of abuse or neglect. The Administration has serious concerns, expressed in the letter to Ways and Means Subcommittee Chairman Clay Shaw and Ranking Member Harold Ford last week, about the proposed block grant approach to child protection. There is unanimous agreement that the system for serving abused and neglected children and their families is seriously overburdened and unable to respond adequately to the needs of children today. The block grant approach potentially endangers the safety of these children by reducing funds for services and for foster and adoptive homes, eliminating critical protections for their well-being, and potentially halting progress in states that are moving forward on the reforms that are needed in this system.

The proposed legislation consolidates existing programs into a block grant with nominal federal oversight and reduces resources significantly from the current services baseline. The Administration has serious concerns about these provisions. First, the proposed legislation caps spending for child protection at $5.6 billion less than projected baseline spending over 5 years. This cut could force states to gamble with children's well-being -- choosing whether to: leave maltreatment reports uninvestigated, leave children in unsafe homes with minimal services, cut payments to foster parents, or eliminate prevention. Second, the proposed legislation virtually eliminates federal monitoring and accountability mechanisms and also eliminates federal support for research, training, technical assistance, and demonstration projects. It would be virtually impossible for the Federal Government to assure the safety of children or help states improve their systems.

The Chairman's mark repeals the Abandoned Infants Assistance Act, the Child Abuse Prevention and Treatment Act, the Adoption Opportunities Program, the Crisis Nurseries Act, the Missing Children's Assistance Act, and the Family Support Centers program under the Stewart B. McKinney Homeless Assistance Act. The activities authorized under these programs would be permitted but not required under the Child Protection Block Grant approved by the Ways and Means Subcommittee on Human Resources.

In addition to general concerns about the block granting of child protection funds, the Administration has several specific concerns about the proposed repeal of programs within the jurisdiction of your Committee.

- o The proposed legislation repeals the Adoption Opportunities program and eliminates the Adoption Assistance program, leaving it up to states whether they can afford the subsidies that enable many special needs children to find permanent homes. These repeals could slow the progress that has been made on adoptions since 1988.

- o The legislation repeals the Abandoned Infants program, which was established to respond to the continuing crises of AIDS and crack cocaine. These crises have disproportionate effects on families and child welfare systems in selected urban areas.

- o The proposed legislation eliminates all direct federal support for non-profit agencies, community-based organizations and public-private partnerships, such as Children's Trust Funds, as well as all earmarked support for prevention of child abuse and neglect.

The Administration is committed to improving the child welfare system. The system must ensure the safety of children and strengthen the capacity of parents to nurture healthy children. Given the critical nature of these services, the Administration supports an approach to change that provides states and communities with flexibility to develop services that are responsive to the needs of their citizens, but within the context of a national framework that maintains a commitment to federal resources, and strong, effective protections for children and families.

In summary, the Administration looks forward to working with the Committee in a bipartisan fashion to promote two key goals: work for families and safety and healthy development for children. But we are concerned that the proposed legislation does not move toward these goals. It does nothing to provide child care that would move families from welfare to work, and it risks moving families who are now working back onto welfare as they lose child care assistance. It weakens protections for children's safety in child care, and gambles with their well-being if they are abused or neglected. It neither holds state bureaucracies accountable nor cushions state taxpayers against recession or growing family needs. We believe there are alternative approaches to reform that achieve our mutual goals in far more constructive and accountable ways.

The Office of Management and Budget advises that there is no objection to the transmittal of this report to Congress.

A similar letter also was sent to Representative William Clay and members of the Committee on Economic and Educational Opportunities.

Sincerely,

Donna E Shalala

Donna E. Shalala