E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

12-Feb-1996 08:19pm

TO: Carol H. Rasco

FROM: Diana M. Fortuna
Domestic Policy Council

CC: Jeremy D. Benami
CC: Elizabeth E. Drye

SUBJECT: Adoption

In preparation for our meeting on my issues tomorrow, I wanted to give you an outline of the adoption issue. (We have been planning to do a brainstorming session on this with you, Carol, pending your availability; I think this would be a good idea.)

I have met a few times with Carol Williams of HHS/ACF and Deb Both of the First Lady's Office to discuss this. Here is the beginning of a draft strategy. I'd be interested in your advice/input.

The problem has different facets, so it must be attacked in different ways.

1. To address the shortage of families to act as foster care/adoptive parents, we could put together a group of prominent organizations, including the ABA, AMA, church groups, media, etc. to challenge them to identify what actions they could take to recruit families. HHS has talked about calling this a "Network of Champions." Mrs. Clinton would presumably play a role in such an effort.

2. Improving the state-based system of foster care is difficult. Many state systems are in crisis. However, seeking more mandates or restrictions on states would also be problematic.

For example, one idea that is now popular is "concurrent planning", which means trying to place a child with a foster family that has the potential to be an adoptive family, while you are still working with the birth parents to determine if the child can be returned to them. While this is clearly a good idea, mandating the states to do it wouldn't go over well.

An alternative is to engage in a more collaborative process with the states. Carol Williams is now putting together a strategic plan that would move the system more toward measuring outcomes, setting goals, and sharing best practices.

She now has a small group of 30 interested parties, including a few states, involved in this, and expects to be done in May or June. Then she would expect to talk to all the states.

3. The courts play a significant role in the delays in the current system, but they are hard to approach in a policy sense. However, ACF has a "court improvement project" now underway that looks promising. It gives small grants to each state's court system to engage in a self-examination about how well they currently handle adoptions, and they could improve their track records. Deb Both and I are going to learn more about this.

Anyway, this is the beginning of a strategy, drawn largely from where HHS is already heading -- which I think makes sense. (Carol Williams seems pretty solid to me.)

TO: Carol Rasco
Jeremy Ben-Ami

FROM: Diana Fortuna DF

CC: Elizabeth Drye
Jen Klein

DATE: April 29, 1996

Bruce Reed asked me for a reaction to some ideas in a summary of Senator Coats' bill on an adoption tax credit, and I sent him the attached memo last Friday. I think he is interested in moving on something like this.

The Adoption Assistance Act

Over the past 25 years, there has been a dramatic increase in the number of children born out of wedlock, children being raised by single parents, families on welfare, and children entering the foster care system because of abuse, neglect, or abandonment. Family disintegration is widespread. Yet there also has been a sharp decrease in the number of children being adopted, with formal adoptions dropping by almost 50 percent: from 89,000 in 1970 to a fairly constant 50,000 annually throughout the 1980s into the 1990s.

One key reason is cost. The costs of adoption are often prohibitive, especially for working class families. The average cost of an adoption is $14,000 and it is not uncommon for this figure to reach upwards of $25,000. Often this includes prenatal care for the birthmother and child, counseling for the adoptive family, and legal fees.

The federal government should support parents, whether they choose to have children on their own or adopt them. There is currently inequity in the tax system. While certain health care costs related to the conception, delivery and birth of a child may be deducted as medical expenses, no similar relief is available for adoptive families. In addition, in an adoption, medical expenses related to the child's birth are not covered by the (adoptive) parents' health insurance, but are paid for out-of-pocket.

no insurance

Money should not be the primary criterion for selecting a family for a child. Adoption is assistance to children of parents who find themselves unable or unwilling to care for them. Every child available for adoption is a child with a special need for a loving home.

"The Adoption Assistance Act" embodies the idea that providing tax breaks for adoptions today will have the positive effect of reducing the number of children in need of foster care tomorrow.

- An estimated one to two million prospective parents are still waiting to adopt a child.
- Close to 37,000 children with special needs are legally free and waiting for adoption in the United States.
- The national out-of-wedlock birthrate may reach 40 percent by the year 2000. Yet in 1991, only 4 percent of children born out-of-wedlock were adopted. This is down from 25 percent in 1971.

"For every child who is ready for a permanent home, there are families waiting. It is time to shatter the myth that adoptive parents are interested only in "healthy white babies." There are waiting lists to adopt white children, black children, Hispanic children, infants and teens, children with Down's syndrome and with AIDS. Private agencies for years have found families for all types of children. The National Adoption Center maintains a computerized listing of 650 qualified families waiting to embrace disabled "older" children. The center reports that infants, even the most severely disabled, are adopted almost immediatly. Clearly, the barriers to adoption are neither the characteristics of children who wait nor the parents who want to care for them."

-- Conna Craig, Policy Review, 1995

This legislation would:

- Offer a $5,000 refundable targeted tax credit for adoption, available in full to families earning less than $60,000 and in part to families earning between $60,000 and $100,000.
- Provide up to $2,000 in assistance for Federal employees to help with the costs directly related to adopting a child.
- Exclude employer provided adoption assistance from taxation. ?

Bill Boortz 622-1352
benefits

"Tax fairness for adoptive families is long overdue, and Senator Coats' approach certainly meets with our approval. We are particularly pleased to see his bill combine the best of the tax credit approaches with the best of the employee benefits plans. This will empower individuals and families who want to adopt, reduce bureaucracy and encourage more employers to grant adoptive families benefits similar to those they extend to people who add children to their family through childbirth. At the same time, the tax package will help reduce the numbers of children in the foster care system. What a bargain for taxpayers!"

-- National Council for Adoption

Preexisting condition → until final [illegible]

very political
not open records
RTL

Congr Coalition - RTL / [illegible]

Eric Today 622-0120

TO: Bruce Reed

FROM: Diana Fortuna Diana

DATE: April 26, 1996

Here is what I've found on Senator Coats' ideas on adoption assistance.

Coats' ideas are not so much great alternatives to a tax credit as they are rationales for a tax credit. The parity issues Coats raises are more relevant to middle-class private adoptions of babies than to adoption of special needs children from public agencies. (Special needs means minority, disabled, or older children or sibling groups from the public system.) However, his proposed solution of a tax credit would benefit both private and public adoptions.

I am also attaching a Treasury memo on the adoption tax credit that was apparently written in response to the President's expression of interest in this subject during the budget negotiations last winter. This memo raises some concerns about a credit, and recommends limiting it to special needs children and public agency adoptions, or else making it smaller. But I don't think Treasury would vehemently oppose a broader credit. (You may have a better sense of this than I do.)

<u>General Thoughts on a Tax Credit:</u> Putting aside concerns about the budget and cluttering up the tax code, a tax credit is a fairly good idea. For private adoptions, it would address the issue of parity with the costs of having biological children. For public adoptions, it would encourage adoption of special needs children and direct assistance to the lower-income families who are most likely to adopt them.

The argument in favor of limiting a tax credit to special needs adoptions is that we don't need to encourage private adoptions (where there is a shortage of kids), and we do need to encourage special needs adoption (where there is a shortage of adoptive families). However, it is in the private adoption world where families face tremendous out-of-pocket costs for lawyers, agency fees, and medical costs for the birth and birth mother. Families adopting IV-E children get maintenance payments, Medicaid, are eligible for a special IV-E reimbursement of up to $2,000 of non-recurring adoption expenses, probably don't have to hire a lawyer, and don't pay agency fees.

So I think there is a decent argument that it should not be limited to special needs (other than the hit on the budget).

Other issues include whether a tax credit ~~it~~ should include international adoptions (probably yes, in the interests of broad appeal); whether it should be a refundable credit, which would benefit lower-income families more (probably yes, to encourage special needs adoptions); and whether costs already reimbursed through government programs should be eligible for the credit (probably not, for fiscal integrity reasons).

As you know, the tax credit has become identified as a Republican idea. Democrats have floated bills that would allow tax-free IRA withdrawals for adoption costs or require employers to grant leave benefits to employees who adopt, but are avoiding the tax credit, even though it is the simplest and most appealing idea.

<u>Senator Coats' Adoption Issues:</u>
1. Coats' summary says, "While certain health care costs related to the conception, delivery, and birth of a child may be deducted as medical expenses, no similar relief is available for adoptive families."

This simply refers to the feature of U.S. tax law that allows medical costs that exceed a certain percentage of income to be deducted. Most of us don't take advantage of this because our out-of-pocket costs aren't high enough.

Presumably Coats is referring to a situation common in private adoptions of babies, where an adoptive family agrees to foot the bill for prenatal, birth, and postnatal costs. His proposed solution is a tax credit, rather than making these costs deductible. Treasury could take a look at which approach is better from a tax policy perspective.

(It is possible that Coats is referring to attorney and agency fees, saying they are analogous to birth costs. A capped tax credit would be the best option here, since you wouldn't want to encourage higher fees by making them deductible.)

2. Coats' summary says, "In addition, in an adoption, medical expenses related to the child's birth are not covered by the (adoptive) parents' health insurance, but are paid for out-of-pocket."

This is really a restatement of the previous item, pointing out that these costs are neither deductible nor covered by private health insurance. Coats' solution to this is a tax credit.

An alternative is to force private health insurance policies to cover maternity costs for adoptive families as if the adoptive mother were the birth mother. Arizona is the only state that requires this. Presumably, however, it would be easier for us to get a tax credit enacted than a new requirement on private insurance companies.

One improvement took place through a 1993 change to ERISA that requires employer-provided health plans to cover adopted children at the time the family takes responsibility for the child -- presumably right after birth in these types of cases. So families do not have to wait for the adoption to be formally complete before the child is added to their health insurance (assuming they are covered by an ERISA plan, which most people are). However, the birth and prenatal care remain uncovered.

3. Coats' summary says, "Exclude employer provided adoption assistance from taxation."

More and more companies are offering a lump sum of $2,000 in assistance for families who adopt. Dave Thomas and the Wendy's Foundation are pushing this. Coats would exclude this from taxation. I'm not sure whether it would also be deductible for the employer.

It would be awkward for us to propose this without also agreeing that the Federal government should offer this benefit to its employees. Coats proposes to do this. I don't know how feasible this would be for us.

cc: Jeremy Ben-Ami

January 5, 1996

MEMORANDUM FOR PRESIDENT CLINTON

FROM LESLIE B. SAMUELS

THROUGH SECRETARY ROBERT E. RUBIN

SUBJECT: ADOPTION TAX CREDITS: BACKGROUND AND ALTERNATIVES

The Balanced Budget Act (BBA) includes a tax credit for adoptions. It would provide a 100% non-refundable credit for the first $5,000 per child of eligible adoption-related expenditures (including expenditures that are reimbursed by the states for "special needs" adoptions). No credit would be allowed for step-parent adoptions; and the credit would be phased out between $75,000 and $115,000 of AGI. JCT estimates that the BBA adoption proposal would cost $1,945 million over FY1996-FY2002, and $2,960 million over FY1996-FY2005.

We have significant concerns about the BBA adoption credit. The following policy issues are presented for your consideration as well as two possible proposals which we believe represent better tax policy than the BBA provision.

- The number of people seeking to adopt non-special needs children exceeds by several times the number of such children available for adoption. Conversely, there is a shortage of adopters for "special needs" and similar children.
- Adoption assistance should be targeted. Adoption assistance is best targeted when provided through outlay programs. Adoption tax relief provides windfall benefits to those who would undertake adoptions anyway but does not provide sufficient incentives for lower income families to undertake adoptions.
  - This is particularly true for "special needs" adoptions which are undertaken predominately by foster parents (typically lower- and middle-income families) who are already providing homes for these hard-to-place potential adoptees.
  - A refundable tax credit would be of more benefit to lower income families for whom the incentive created by tax relief would be greatest. However, refundable credits raise significant compliance problems.
- A tax credit should not be for 100% of expenses. A 100% credit is essentially a direct expenditure program. It would encourage increases in adoption fees and costs, since they will be reimbursed through the 100% credit. A 100% credit also presents compliance and enforcement problems.

but cap is $5K, + current ave. cost is $14K

- A tax benefit should not be allowed for reimbursed expenses. This "double dipping" would encourage unnecessary increases in expenditures so that costs currently borne by states or private agencies would be shifted to the Federal government. This is particularly true for "special needs" adoptions where government programs currently absorb most of the costs.
- For "special needs" adoptions, the real need is for continuing long-term assistance, such as medical benefits which could be provided by automatic eligibility for Medicaid.

Option 1: Target Credit to "Special Needs" Adoptions.

The credit would be restricted to expenditures for "special needs" adoptions, and no credit would be allowed for reimbursed expenditures. The credit would be 50% of the first $5,000 of eligible expenditures. With the same income phase out range as in BBA, the cost of this option is $58 million over FY1996-FY2002, and $88 million over FY1996-FY2005.

By targeting "special needs" adoptions and addressing some of the concerns mentioned above, we believe that this option would be good tax policy and would encourage "special needs" adoptions that would not otherwise occur.

Option 2 - Reduce Maximum Credit to $2,000 as mentioned by Senator Dole.

The credit would be 50% of the first $4,000 per child of eligible adoption expenditures, and would not cover reimbursed expenditures. With the same income phase out range as in BBA, the cost of this option is $723 million over FY1996-FY2002, and $1,096 million over FY1996-FY2005.

Option 2 is far more liberal than Option 1, but by providing only a 50% credit rate and eliminating double-dipping, it eliminates the main objections to the BBA provision.

cc: Laura Tyson