

Withdrawal/Redaction Sheet

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001. fax	To List from Cynthia Rice (partial, DOB, SSN) (1 page)	04/23/1997	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Diana Fortuna
OA/Box Number: 12021

FOLDER TITLE:

FLSA [Fair Labor Standards Act] 2 [1]

2018-0525-S

ry2242

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

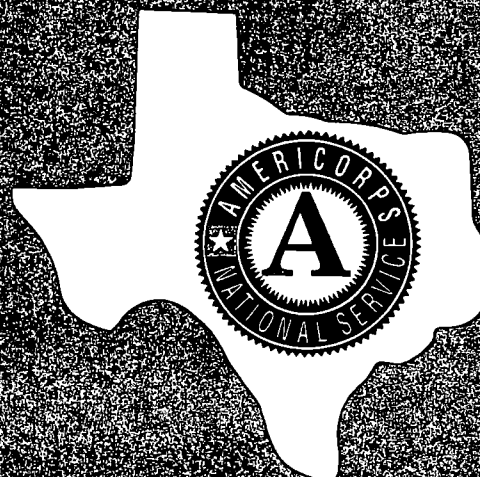
C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



PHOTOCOPY
PRESERVATION

Effect of Minimum Wage Increase on Cost of Workfare Programs

Talking Points

- There is one additional concern that we should be mindful of, as we consider what level of increase to propose in the minimum wage. As you know, Republicans made a concerted effort last year to roll back labor protections for those on workfare. Many Governors supported this effort, arguing they could not afford to pay the minimum wage for workfare jobs.
- A larger minimum wage increase will add to the pressure that Governors feel on this issue.
- So far, we have beaten back the Republicans' efforts, and persuaded Democratic Governors not to ally themselves with Republican Governors on this issue. However, some Democratic Governors remain very concerned about this issue. Their support of Republican proposals would give that effort new momentum.

Background

- In May, the Labor Department ruled that most workfare programs are subject to the Fair Labor Standards Act and other labor protections, including payment of the minimum wage.
- Governors have complained loudly that the DOL ruling severely hampers their ability to establish work programs for welfare recipients. The law requires states to put 50% of their welfare recipients to work by the year 2002, or face penalties. Welfare benefits are not high enough in some states to support payment of the minimum wage for 20 or 30 hours a week.
- DOL's ruling led the Republican leadership in Congress to seek to roll back current law labor protections for workfare jobs. We were able to hold the line and stop these efforts, but we can expect the issue to re-emerge this year.
- Any minimum wage increase will increase the number of states whose welfare benefits are not large enough to fund a minimum wage workfare job. As the size of the minimum wage increase goes up, so do the number of states with problems.

States Whose Welfare Benefits Can't Support a Minimum Wage Workfare Job		
Minimum Wage	Families of 2	Families of 3
Current Minimum Wage	8 states	No states
Increase of 50 cents (\$5.65)	15 states	1 state
Increase of \$1 (\$6.15)	21 states	2 states
Increase of \$2 (\$7.15)	36 states	9 states

Notes to chart

**The Difference Between the Minimum Wage for 20 Hours a Week and the
Combined Maximum Food Stamps and TANF Benefits:
Key Points and Methodological issues**

- The attached tables illustrate that relatively few states will face additional monthly costs if they combine the maximum AFDC and Food Stamp benefits to pay the minimum wage for a 20 hour work week.
- The analysis calculates the effective wage rate for a 20 hour work week as required in FY 1997 for single parent families (25% of the caseload is required to work in FY 1997). While the number of hours required for participation increases to 30 in FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result, states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for 10 hours of training. In addition, single parents with a child under 6, about 60% of the caseload, are required to participate for only 20 hours per week even when the hours requirement increases in later years. [Relatively low benefit states that choose to require recipients to participate in work for all 30 hours may face additional costs.] Finally, two-parent families are required to participate in work activities for 30 hours a week beginning in FY 1997. The additional hours required for two-parent families would result in more states being unable to pay the minimum wage by combining food stamp and TANF benefits.
- The analysis utilizes the maximum food stamp benefit calculated for a family that receives the maximum TANF benefit. Approximately 25% of the 1995 AFDC caseload received less than maximum benefits. [While some of these families receive less benefits because of earnings (presumably at least at the minimum wage), a significant portion receive less benefits because of unearned income that would not count toward satisfying the minimum wage requirement. As a result, it is almost certain that each state would have some cases in which food stamp and TANF benefits combined would not meet the minimum wage, if the parent were required to work.]
- [Families that receive child support may receive less than the maximum benefit. As a policy matter, states may not want families to work off their child support benefits and therefore may have to provide additional compensation to meet the minimum wage.]
- Most of the discussion has centered on the potential impact of the FLSA for a family of three, the average unit size of an AFDC family. However, 40% of those on AFDC have only two persons in the unit. [Eight states including Texas would be unable to pay the minimum wage by combining TANF and food stamp benefits for a family of two.]
- The table assumed a 100% excess shelter deduction. However, except for the lowest benefit states, if the excess shelter deduction were 0% the value of combined AFDC and food stamp benefits would be significantly reduced.

but more bens?

ask HHS

75%

20-30

2 parent

assume max

all 2-9

- The analysis assumes that states maintain the level of benefits offered under AFDC. To the extent that states increase their benefit levels, even fewer states would have be unable to meet the minimum wage by combining food stamp and TANF benefits. To the extent that states decrease their benefit levels, more states would be unable to meet the minimum wage simply by combining food stamps and TANF benefits.

For Illustrative Purposes Only

TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Alaska	821	231	\$1,052	\$12.23	\$0
Hawaii	565	357	\$922	\$10.72	\$0
Vermont	533	172	\$705	\$8.20	\$0
Connecticut	513	178	\$691	\$8.03	\$0
New York	468	203	\$671	\$7.80	\$0
New Hampshire	481	188	\$669	\$7.78	\$0
California	479	188	\$667	\$7.76	\$0
Rhode Island	449	218	\$667	\$7.76	\$0
Massachusetts	474	190	\$664	\$7.72	\$0
Washington	440	218	\$658	\$7.65	\$0
Wisconsin	440	200	\$640	\$7.44	\$0
Minnesota	437	201	\$638	\$7.42	\$0
Oregon	395	218	\$613	\$7.13	\$0
South Dakota	380	218	\$598	\$6.95	\$0
Michigan	371	218	\$589	\$6.85	\$0
Iowa	361	218	\$579	\$6.73	\$0
Kansas	352	218	\$570	\$6.63	\$0
Montana	349	218	\$567	\$6.59	\$0
Utah	342	218	\$560	\$6.51	\$0
North Dakota	333	218	\$551	\$6.41	\$0
Pennsylvania	330	218	\$548	\$6.37	\$0
Dist. of Columbia	326	218	\$544	\$6.33	\$0
New Jersey	322	218	\$540	\$6.28	\$0
Wyoming	320	218	\$538	\$6.26	\$0
Maine	312	218	\$530	\$6.16	\$0
New Mexico	310	218	\$528	\$6.14	\$0
Virginia	294	218	\$512	\$5.95	\$0
Nebraska	293	218	\$511	\$5.94	\$0
Maryland	292	218	\$510	\$5.93	\$0
Nevada	289	218	\$507	\$5.90	\$0
Colorado	280	218	\$498	\$5.79	\$0
Ohio	279	218	\$497	\$5.78	\$0
Illinois	278	218	\$496	\$5.77	\$0
Arizona	275	218	\$493	\$5.73	\$0
Delaware	270	218	\$488	\$5.67	\$0
Idaho	251	218	\$469	\$5.45	\$0
Virgin Islands	180	281	\$461	\$5.36	\$0
Florida	241	218	\$459	\$5.34	\$0

For Illustrative Purposes Only

TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo + 26¢	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Oklahoma	238	218	\$456 478	\$5.30 5.56	\$0
North Carolina	236	218	\$454 476	\$5.28 5.53	\$0
Georgia	235	218	\$453 475	\$5.27 5.52	\$0
Missouri	234	218	\$452 474	\$5.26 5.51	\$0
Indiana	229	218	\$447 469	\$5.20 5.45	\$0
Kentucky	225	218	\$443 465	\$5.15 5.41	\$0
West Virginia	201	218	\$419 441	\$4.87 5.13	\$24
Texas	163	218	\$381 403	\$4.43 4.69	\$62
Arkansas	162	218	\$380	\$4.42	\$63
South Carolina	159	218	\$377	\$4.38	\$66
Tennessee	142	218	\$360	\$4.19	\$83
Louisiana	138	218	\$356	\$4.14	\$87
Alabama	\$137	218	\$355	\$4.13	\$88
Mississippi	96	218	\$314	\$3.65	\$129

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage.
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

Max FS ben 2001
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Morganian
Daschle
Cousins
Armed

For Illustrative Purposes Only

TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Alaska	\$923	\$321	\$1,244	\$14.47	\$0
Hawaii	\$712	\$471	\$1,183	\$13.76	\$0
Connecticut	\$636	\$236	\$872	\$10.14	\$0
Vermont	\$633	\$237	\$870	\$10.12	\$0
Rhode Island	\$554	\$299	\$853	\$9.92	\$0
New York	\$577	\$270	\$847	\$9.85	\$0
California	\$596	\$248	\$844	\$9.81	\$0
Washington	\$546	\$289	\$835	\$9.71	\$0
Massachusetts	\$565	\$257	\$822	\$9.56	\$0
New Hampshire	\$550	\$262	\$812	\$9.44	\$0
Minnesota	\$532	\$267	\$799	\$9.29	\$0
Wisconsin	\$517	\$272	\$789	\$9.17	\$0
Oregon	\$460	\$313	\$773	\$8.99	\$0
Michigan	\$459	\$300	\$759	\$8.83	\$0
Kansas	\$429	\$313	\$742	\$8.63	\$0
Montana	\$438	\$295	\$733	\$8.52	\$0
New Jersey	\$424	\$307	\$731	\$8.50	\$0
North Dakota	\$431	\$298	\$729	\$8.48	\$0
South Dakota	\$430	\$298	\$728	\$8.47	\$0
Utah	\$426	\$299	\$725	\$8.43	\$0
Iowa	\$426	\$299	\$725	\$8.43	\$0
Pennsylvania	\$421	\$301	\$722	\$8.40	\$0
Maine	\$418	\$301	\$719	\$8.36	\$0
Dist. of Columbia	\$415	\$302	\$717	\$8.34	\$0
New Mexico	\$389	\$310	\$699	\$8.13	\$0
Illinois	\$377	\$313	\$690	\$8.02	\$0
Maryland	\$373	\$313	\$686	\$7.98	\$0
Nebraska	\$364	\$313	\$677	\$7.87	\$0
Wyoming	\$360	\$313	\$673	\$7.83	\$0
Colorado	\$356	\$313	\$669	\$7.78	\$0
Virginia	\$354	\$313	\$667	\$7.76	\$0
Nevada	\$348	\$313	\$661	\$7.69	\$0
Arizona	\$347	\$313	\$660	\$7.67	\$0
Ohio	\$341	\$313	\$654	\$7.60	\$0
Delaware	\$338	\$313	\$651	\$7.57	\$0
Virgin Islands	\$240	\$402	\$642	\$7.47	\$0
Idaho	\$317	\$313	\$630	\$7.33	\$0
Oklahoma	\$307	\$313	\$620	\$7.21	\$0

For Illustrative Purposes Only

TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
				<i>+30¢</i>	
Florida	\$303	\$313	\$616	\$7.16	\$0
Missouri	\$292	\$313	\$605	\$7.03	\$0
Indiana	\$288	\$313	\$601	\$6.99 <i>7.35</i>	\$0
Georgia	\$280	\$313	\$593	\$6.90 <i>7.26</i>	\$0
North Carolina	\$272	\$313	\$585	\$6.80 <i>7.16</i>	\$0
Kentucky	\$262	\$313	\$575	\$6.69 <i>7.05</i> → <i>\$2</i>	\$0
West Virginia	\$253	\$313	\$566	\$6.58 <i>6.94</i>	\$0
Arkansas	\$204	\$313	\$517	\$6.01 <i>6.37</i>	\$0
South Carolina	\$200	\$313	\$513	\$5.97 <i>6.33</i>	\$0
Louisiana	\$190	\$313	\$503 <i>534</i>	\$5.85 <i>6.21</i>	\$0
Texas	\$188	\$313	\$501 <i>532</i>	\$5.83 <i>6.19</i>	\$0
Tennessee	\$185	\$313	\$498 <i>529</i>	\$5.79 <i>6.15</i> → <i>1</i>	\$0
Alabama	\$164	\$313	\$477 <i>508</i>	\$5.55 <i>5.91</i> → <i>50¢</i>	\$0
Mississippi	\$120	\$313	\$433 <i>464</i>	\$5.03 <i>5.40</i>	\$10
Puerto Rico	\$180	NA	NA	\$0.00	NA

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

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For Illustrative Purposes Only

TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Hawaii	859	567	\$1,426	\$16.58	\$0
Alaska	1,025	399	\$1,424	\$16.56	\$0
Connecticut	741	289	\$1,030	\$11.98	\$0
New York	687	325	\$1,012	\$11.77	\$0
Vermont	711	298	\$1,009	\$11.73	\$0
California	707	299	\$1,006	\$11.70	\$0
Rhode Island	632	365	\$997	\$11.59	\$0
Washington	642	349	\$991	\$11.52	\$0
Massachusetts	651	316	\$967	\$11.24	\$0
Minnesota	621	325	\$946	\$11.00	\$0
Wisconsin	617	326	\$943	\$10.97	\$0
Oregon	565	377	\$942	\$10.95	\$0
New Hampshire	613	327	\$940	\$10.93	\$0
Michigan	563	352	\$915	\$10.64	\$0
Kansas	497	383	\$880	\$10.23	\$0
Montana	527	353	\$880	\$10.23	\$0
Maine	526	353	\$879	\$10.22	\$0
North Dakota	517	356	\$873	\$10.15	\$0
Pennsylvania	514	357	\$871	\$10.13	\$0
Dist. of Columbia	507	359	\$866	\$10.07	\$0
New Jersey	488	373	\$861	\$10.01	\$0
Utah	498	361	\$859	\$9.99	\$0
Iowa	495	362	\$857	\$9.97	\$0
South Dakota	478	367	\$845	\$9.83	\$0
Maryland	450	391	\$841	\$9.78	\$0
New Mexico	469	370	\$839	\$9.76	\$0
Nebraska	435	380	\$815	\$9.48	\$0
Colorado	432	381	\$813	\$9.45	\$0
Virgin Islands	300	511	\$811	\$9.43	\$0
Ohio	421	385	\$806	\$9.37	\$0
Illinois	414	392	\$806	\$9.37	\$0
Arizona	418	385	\$803	\$9.34	\$0
Virginia	410	388	\$798	\$9.28	\$0
Nevada	408	388	\$796	\$9.26	\$0
Delaware	407	389	\$796	\$9.26	\$0
Wyoming	390	394	\$784	\$9.12	\$0
Idaho	382	396	\$778	\$9.05	\$0

For Illustrative Purposes Only

TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Oklahoma	380	397	\$777	~~454~~ \$9.03	\$0
Florida	364	397	\$761	\$8.85	\$0
Indiana	346	397	\$743	\$8.64	\$0
Missouri	342	397	\$739	\$8.59	\$0
Georgia	330	397	\$727	\$8.45	\$0
Kentucky	328	397	\$725	\$8.43	\$0
West Virginia	312	397	\$709	\$8.24	\$0
North Carolina	297	397	\$694	\$8.07	\$0
Arkansas	247	397	\$644	\$7.49	\$0
South Carolina	241	397	\$638	\$7.42	\$0
Louisiana	234	397	\$631	\$7.34	\$0
Tennessee	226	397	\$623	\$7.24	\$0
Texas	226	397	\$623	\$7.24	\$0
Alabama	\$194	397	\$591	\$6.87	\$0
Mississippi	144	397	\$541	\$6.29 ~~6.74~~	\$0

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

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**The Difference Between the Minimum Wage for 30 Hours a Week and the
Combined Maximum Food Stamps and TANF Benefits:
Key Points and Methodological issues**

- The attached tables illustrate that a number of states will have difficulty paying the minimum wage by combining the maximum AFDC and Food Stamp benefits for a 30 hour work week as required for two parent families in FY 1997 and at state option for some single parent families beginning in FY 2000.
- The analysis calculates the effective wage rate for a 30 hour work week. While two parent families must participate for 35 hours per week beginning in FY 1997, only 30 of those hours must be in work activities as described in Sec. 407. Similarly, while single parent families must participate for 30 hours a week beginning in FY 2000, only 20 of those hours must be within the activities described in Sec. 407. States could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for 10 hours of training. In addition, single parents with a child under 6, about 60% of the caseload, are required to participate for only 20 hours per week even when the hours requirement increases in later years. Relatively low benefit states that choose to require recipients to participate in work for all 30 hours may face additional costs.
- The analysis utilizes the maximum food stamp benefit calculated for a family that receives the maximum TANF benefit. Approximately 25% of the 1995 AFDC caseload received less than maximum benefits. While some of these families receive less benefits because of earnings (presumably at least at the minimum wage), a significant portion receive less benefits because of unearned income that would not count toward satisfying the minimum wage requirement. As a result, it is almost certain that **each state** would have some cases in which food stamp and TANF benefits combined would not meet the minimum wage, if the parent were required to work.
- Families that receive child support may receive less than the maximum benefit. As a policy matter, states may not want families to work off their child support benefits and therefore may have to provide additional compensation to meet the minimum wage.
- Most of the discussion has centered on the potential impact of the FLSA for a family of three, the average unit size of an AFDC family. However, 40% of those on AFDC have only two persons in the unit. Almost forty states would be unable to pay the minimum wage by combining TANF and food stamp benefits for a family of two for a 30 hour work week.
- The table assumed a 100% excess shelter deduction. However, except for the lowest benefit states, if the excess shelter deduction were 0% the value of combined AFDC and food stamp benefits would be significantly reduced.

- The analysis assumes that states maintain the level of benefits offered under AFDC. To the extent that states increase their benefit levels, even fewer states would have be unable to meet the minimum wage by combining food stamp and TANF benefits. To the extent that states decrease their benefit levels, more states would be unable to meet the minimum wage simply by combining food stamps and TANF benefits.

For Illustrative Purposes Only

TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
					+26¢ - 2001 FS max
Alaska	821	231	\$1,052	\$8.16	\$0
Hawaii	565	357	\$922	\$7.15	\$0
Vermont	533	172	\$705	\$5.47 <u>5.73</u>	\$0
Connecticut	513	178	\$691	\$5.36 <u>5.62</u>	\$0
New York	468	203	\$671	\$5.20 <u>5.46</u>	\$0
New Hampshire	481	188	\$669	\$5.19 <u>5.45</u>	\$0
California	479	188	\$667	\$5.17 <u>5.43</u>	\$0
Rhode Island	449	218	\$667	\$5.17 <u>5.43</u>	\$0
Massachusetts	474	190	\$664	\$5.15 <u>5.41</u>	~~\$0~~
Washington	440	218	\$658	\$5.10 <u>5.36</u>	\$6
Wisconsin	440	200	\$640	\$4.96 <u>5.22</u>	\$24
Minnesota	437	201	\$638	\$4.95 <u>5.21</u>	\$26
Oregon	395	218	\$613	\$4.75 <u>5.01</u>	\$51
South Dakota	380	218	\$598	\$4.64	\$66
Michigan	371	218	\$589	\$4.57	\$75
Iowa	361	218	\$579	\$4.49	\$85
Kansas	352	218	\$570	\$4.42	\$94
Montana	349	218	\$567	\$4.40	\$97
Utah	342	218	\$560	\$4.34	\$104
North Dakota	333	218	\$551	\$4.27	\$113
Pennsylvania	330	218	\$548	\$4.25	\$116
Dist. of Columbia	326	218	\$544	\$4.22	\$120
New Jersey	322	218	\$540	\$4.19	\$124
Wyoming	320	218	\$538	\$4.17	\$126
Maine	312	218	\$530	\$4.11	\$134
New Mexico	310	218	\$528	\$4.09	\$136
Virginia	294	218	\$512	\$3.97	\$152
Nebraska	293	218	\$511	\$3.96	\$153
Maryland	292	218	\$510	\$3.95	\$154
Nevada	289	218	\$507	\$3.93	\$157
Colorado	280	218	\$498	\$3.86	\$166
Ohio	279	218	\$497	\$3.85	\$167
Illinois	278	218	\$496	\$3.84	\$168
Arizona	275	218	\$493	\$3.82	\$171
Delaware	270	218	\$488	\$3.78	\$176
Idaho	251	218	\$469	\$3.64	\$195
Virgin Islands	180	281	\$461	\$3.57	\$203
Florida	241	218	\$459	\$3.56	\$205

For Illustrative Purposes Only

TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
Oklahoma	238	218	\$456	\$3.53	\$208
North Carolina	236	218	\$454	\$3.52	\$210
Georgia	235	218	\$453	\$3.51	\$211
Missouri	234	218	\$452	\$3.50	\$212
Indiana	229	218	\$447	\$3.47	\$217
Kentucky	225	218	\$443	\$3.43	\$221
West Virginia	201	218	\$419	\$3.25	\$245
Texas	163	218	\$381	\$2.95	\$283
Arkansas	162	218	\$380	\$2.95	\$284
South Carolina	159	218	\$377	\$2.92	\$287
Tennessee	142	218	\$360	\$2.79	\$304
Louisiana	138	218	\$356	\$2.76	\$308
Alabama	\$137	218	\$355	\$2.75	\$309
Mississippi	96	218	\$314	\$2.43	\$350

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

FS 2001
240

For Illustrative Purposes Only

TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
Alaska	\$923	\$321	\$1,244	\$9.64	\$0
Hawaii	\$712	\$471	\$1,183	\$9.17	\$0
Connecticut	\$636	\$236	\$872	\$6.76	\$0
Vermont	\$633	\$237	\$870	\$6.74	\$0
Rhode Island	\$554	\$299	\$853	\$6.61	\$0
New York	\$577	\$270	\$847	\$6.57	\$0
California	\$596	\$248	\$844	\$6.54	\$0
Washington	\$546	\$289	\$835	\$6.47	\$0
Massachusetts	\$565	\$257	\$822	\$6.37	\$0
New Hampshire	\$550	\$262	\$812	\$6.29	\$0
Minnesota	\$532	\$267	\$799	\$6.19	\$0
Wisconsin	\$517	\$272	\$789	\$6.12	\$0
Oregon	\$460	\$313	\$773	\$5.99	\$0
Michigan	\$459	\$300	\$759	\$5.88	\$0
Kansas	\$429	\$313	\$742	\$5.75	\$0
Montana	\$438	\$295	\$733	\$5.68	\$0
New Jersey	\$424	\$307	\$731	\$5.67	\$0
North Dakota	\$431	\$298	\$729	\$5.65	\$0
South Dakota	\$430	\$298	\$728	\$5.64	\$0
Utah	\$426	\$299	\$725	\$5.62	\$0
Iowa	\$426	\$299	\$725	\$5.62	\$0
Pennsylvania	\$421	\$301	\$722	\$5.60	\$0
Maine	\$418	\$301	\$719	\$5.57	\$0
Dist. of Columbia	\$415	\$302	\$717	\$5.56	\$0
New Mexico	\$389	\$310	\$699	\$5.42	\$0
Illinois	\$377	\$313	\$690	\$5.35	\$0
Maryland	\$373	\$313	\$686	\$5.32	\$0
Nebraska	\$364	\$313	\$677	\$5.25	\$0
Wyoming	\$360	\$313	\$673	\$5.22	\$0
Colorado	\$356	\$313	\$669	\$5.19	\$0
Virginia	\$354	\$313	\$667	\$5.17	\$0
Nevada	\$348	\$313	\$661	\$5.12	\$3
Arizona	\$347	\$313	\$660	\$5.12	\$4
Ohio	\$341	\$313	\$654	\$5.07	\$10
Delaware	\$338	\$313	\$651	\$5.05	\$13
Virgin Islands	\$240	\$402	\$642	\$4.98	\$22
Idaho	\$317	\$313	\$630	\$4.88	\$34
Oklahoma	\$307	\$313	\$620	\$4.81	\$44

For Illustrative Purposes Only

TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three.

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
Florida	\$303	\$313	\$616	\$4.78 ^{+36¢}	\$48
Missouri	\$292	\$313	\$605	\$4.69 ^{5.14}	\$59
Indiana	\$288	\$313	\$601	\$4.66 ^{5.05}	\$63
Georgia	\$280	\$313	\$593	\$4.60	\$71
North Carolina	\$272	\$313	\$585	\$4.53	\$79
Kentucky	\$262	\$313	\$575	\$4.46	\$89
West Virginia	\$253	\$313	\$566	\$4.39	\$98
Arkansas	\$204	\$313	\$517	\$4.01	\$147
South Carolina	\$200	\$313	\$513	\$3.98	\$151
Louisiana	\$190	\$313	\$503	\$3.90	\$161
Texas	\$188	\$313	\$501	\$3.88	\$163
Tennessee	\$185	\$313	\$498	\$3.86	\$166
Alabama	\$164	\$313	\$477	\$3.70	\$187
Mississippi	\$120	\$313	\$433	\$3.36	\$231
Puerto Rico	\$180	NA	NA	\$0.00	NA

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

RS-
2001-344
+31
-86 hours +36¢/hr

For Illustrative Purposes Only

TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
Hawaii	859	567	\$1,426	\$11.05	\$0
Alaska	1,025	399	\$1,424	\$11.04	\$0
Connecticut	741	289	\$1,030	\$7.98	\$0
New York	687	325	\$1,012	\$7.84	\$0
Vermont	711	298	\$1,009	\$7.82	\$0
California	707	299	\$1,006	\$7.80	\$0
Rhode Island	632	365	\$997	\$7.73	\$0
Washington	642	349	\$991	\$7.68	\$0
Massachusetts	651	316	\$967	\$7.50	\$0
Minnesota	621	325	\$946	\$7.33	\$0
Wisconsin	617	326	\$943	\$7.31	\$0
Oregon	565	377	\$942	\$7.30	\$0
New Hampshire	613	327	\$940	\$7.29	\$0
Michigan	563	352	\$915	\$7.09	\$0
Kansas	497	383	\$880	\$6.82	\$0
Montana	527	353	\$880	\$6.82	\$0
Maine	526	353	\$879	\$6.81	\$0
North Dakota	517	356	\$873	\$6.77	\$0
Pennsylvania	514	357	\$871	\$6.75	\$0
Dist. of Columbia	507	359	\$866	\$6.71	\$0
New Jersey	488	373	\$861	\$6.67	\$0
Utah	498	361	\$859	\$6.66	\$0
Iowa	495	362	\$857	\$6.64	\$0
South Dakota	478	367	\$845	\$6.55	\$0
Maryland	450	391	\$841	\$6.52	\$0
New Mexico	469	370	\$839	\$6.50	\$0
Nebraska	435	380	\$815	\$6.32	\$0
Colorado	432	381	\$813	\$6.30	\$0
Virgin Islands	300	511	\$811	\$6.29	\$0
Ohio	421	385	\$806	\$6.25	\$0
Illinois	414	392	\$806	\$6.25	\$0
Arizona	418	385	\$803	\$6.22	\$0
Virginia	410	388	\$798	\$6.19	\$0
Nevada	408	388	\$796	\$6.17	\$0
Delaware	407	389	\$796	\$6.17	\$0
Wyoming	390	394	\$784	\$6.08	\$0
Idaho	382	396	\$778	\$6.03	\$0

For Illustrative Purposes Only

TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 30 hrs/wk/mo ^{+NS}	Additional Monthly Cost/Case of Minimum Wage for 30 hours/week for 4.3 weeks/mo.
Oklahoma	380	397	\$777	\$6.02	\$0
Florida	364	397	\$761	\$5.90	\$0
Indiana	346	397	\$743	~~\$5.76~~ 6.21	\$0
Missouri	342	397	\$739	~~\$5.73~~ 6.18	\$0
Georgia	330	397	\$727	~~\$5.64~~ 6.09	\$0
Kentucky	328	397	\$725	~~\$5.62~~ 6.07	\$0
West Virginia	312	397	\$709	~~\$5.50~~ 5.95	\$0
North Carolina	297	397	\$694	~~\$5.38~~ 5.83	\$0
Arkansas	247	397	\$644	~~\$4.99~~ 5.44	\$20
South Carolina	241	397	\$638	~~\$4.95~~ 5.40	\$26
Louisiana	234	397	\$631	~~\$4.89~~ 5.34	\$33
Tennessee	226	397	\$623	~~\$4.83~~ 5.28	\$41
Texas	226	397	\$623	~~\$4.83~~ 5.28	\$41
Alabama	\$194	397	\$591	~~\$4.58~~ 5.03	\$73
Mississippi	144	397	\$541	\$4.19	\$123

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

436 - 2001

+39 ÷ 86 hrs = 45¢/hr

+20% UE + POV

June 2, 1997

TO: Elena Kagan
Cynthia Rice

FR: Diana Fortuna *Diana*

*maddy - yes
practical probs
voc ed - 12 mos
2070*

Attached are 2 FLSA documents.

1. DOL's internal Q&A's on FLSA. DOL needs our comments. We saw a draft of these earlier, but DOL says they got comments from everyone but us. Please get me your comments.

2. Charts on how close each state comes to meeting the minimum wage by combining TANF and food stamps. HHS wants to release these ASAP to Moynihan and Daschle, who requested them. I told Mary Bourdette I'd get back to her with an answer on this today. The charts show a lot of states have problems in addition to Mississippi:

Characteristics:

- 20 hr work requirement, family of 2 (40% of families):
- 20 hr work requirement, family of 3:
- 30 hr work requirement, family of 2:
- 30 hr work requirement, family of 3:

States with Problems:

WV, TX, AR, SC, TN, LA,
AL, MS
Mississippi

All except Alaska, HA, VT
CT, NY, NH, CA, RI, MA
21 states (includes DE, NV,
FL, IN, GA, NC)

HHS's explanatory text notes that states are actually in worse shape than the charts show, because the analysis assumes the maximum food stamp benefit, while 25% of welfare families get less than the maximum.

I am trying to think of anything they left out that cuts the other way, but can't think of anything concrete apart from "TANF is a flexible program, so it is possible that people in wage supplementation or other programs are getting less than the average TANF benefits, making additional funds available for those in workfare." Or the TANF "windfall."

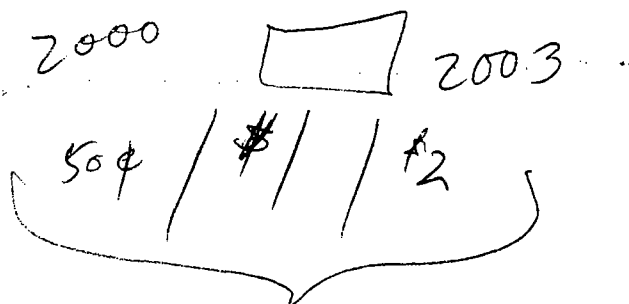
Decisions we must make:

- Release to Moynihan and Daschle? CRS is doing this analysis and will probably release it soon. Mary argues that we might as well arm our friends with this data. Do we want to be the first to show that Mississippi is not the only state with a problem?
- Release both the 20 and 30 hour charts? DOL argues that we should only release the 20 hour chart because, when the requirement increases from 20 to 30 hours, states are permitted to meet 10 of the 30 through training. HHS argues that states have already made plans for more than 20 hours a week with our praise, and so we should release both.
- Whether the explanatory text includes all the right qualifications.

What do you think? Should we get together on a conference call on this?

*Some private
sector wk*

States Whose Welfare Benefits Can't Support a Minimum Wage Workfare Job		
Minimum Wage	Families of 2	Families of 3
Current Minimum Wage	8 states: Mississippi Alabama Louisiana Tennessee South Carolina Arkansas Texas West Virginia	No states
Increase of 50 cents (\$5.65)	15 states -- above plus: Kentucky Indiana Missouri Georgia North Carolina Oklahoma Florida	1 state: Mississippi
Increase of \$1 (\$6.15)	21 states -- above plus: Idaho Delaware Arizona Illinois Ohio Colorado	2 states -- above plus: Alabama
Increase of \$2 (\$7.15)	36 states -- above plus: Nevada Maryland Nebraska Virginia New Mexico Maine Wyoming New Jersey Pennsylvania North Dakota Utah Montana Kansas Iowa Michigan	9 states -- above plus: Tennessee Texas Louisiana South Carolina Arkansas West Virginia Kentucky



Pick a yr when all
phased in?

TP for us

→ Why \$2 create press / backlash
on FLSA

Kennedy mtg & Erskine - Cathy

→ Harder to put people in aff
(T-L)

		~~Fam of 2~~	<u>Fam of 3</u>
	5.15	8	0
50¢	5.65	15	1
\$1	6.15	21	2
\$2	7.15	36 ~~37~~	9

States With Problems in 2001 (assumes 20 hours of work per week) -- Factors in rough food stamp cost of living increase in 2001			
	Families of 2	Families of 3 (average family size)	Families of 4
Current Minimum Wage -- \$5.15	8 states	No states (Miss.'s problem disappears by 2001 because of increase in food stamp allotment)	No states
Year 2001 minimum wage: \$6.20	24 states	4 states	No states

Recall that the number of hours of work required per week increases from 20 hours in 1997 and 1998 to 25 hours in 1999, and 30 hours in 2000 and thereafter. However, the increase from 20 to 30 hours can be in the form of training directly related to employment, so it is possible to argue that 20 hours is the more useful reference point. But below is the 30 hour chart.

States With Problems in 2001 (assumes 30 hours of work per week) -- Factors in rough food stamp cost of living increase in 2001			
	Families of 2	Families of 3 (average family size)	Families of 4
Current Minimum Wage -- \$5.15	38 states	14 states	2 states
Year 2001 minimum wage: \$6.20	48 states	36 states	12 states

States With Problems (assumes 20 hours of work per week) -- NO Food Stamp COLA			
	Families of 2	Families of 3 (average size)	Families of 4
Current Minimum Wage -- \$5.15	8 states (WV, TX, AR, SC, TN, LA, AL, MS)	1 state (MS)	No states
+ \$0.35 = \$5.50	16 states (above plus ID, FL, OK, NC, GA, MO, IN, KY)	1 states (still just MS)	No states
+ \$0.70 = \$5.85	21 states (above plus CO, OH, IL, AZ, DE)	4 states (above plus TX, TN, AL)	No states
+ \$1.05 = \$6.20	27 states (above plus ME, NM, VA, NE, MD, NV)	7 states (above plus AR, SC, LA)	No states

States With Problems (assumes 30 hours of work per week) -- NO Food Stamp COLA			
	Families of 2	Families of 3	Families of 4
Current Minimum Wage -- \$5.15	41 states	20 states	7 states
+ \$0.35 = \$5.50	48 states	27 states	8 states
+ \$0.70 = \$5.85	48 states	35 states	13 states
+ \$1.05 = \$6.20	48 states	39 states	20 states

What the Governors are Saying About the President's Proposal to Extend FLSA to Workfare Participants

"It's an untenable position to put a state in."

Democratic Governor Thomas Carper of Delaware
The New York Times, May 16, 1997

"It adds terrific costs. If we're going to tell every employer, 'Oh, by the way, we're going to have a Federal auditor here,' that's going to be a terrific disincentive" to hiring recipients.

Republican Governor John Engler of Michigan
The New York Times, May 16, 1997

"The administration's decision will 'essentially destroy the delicate blueprint' this state has designed to move people off welfare rolls and into jobs."

Democratic Governor Lawton Chiles of Florida
Associated Press, May 17, 1997

"We have a program that's getting people from welfare to work and the president may be stepping in and upsetting the apple cart."

Pete McDonough, Spokesman for New Jersey Republican
Gov. Christie Whitman. *Associated Press, May 17, 1997*

"The Clinton Administration's decision to force states to pay the Federal minimum wage to welfare recipients represents a step backward that will hinder our ability to move people from welfare into work."

Republican Governor George Pataki of New York
The New York Times, May 17, 1997

Tentative Minimum Wage Provision
May 27, 1997

1. Clarify that workfare participants in the public and nonprofit sectors are not employees for purposes of the Fair Labor Standards Act or any other federal law.

2. However, states may not require recipients to participate in workfare for a number of hours greater than the welfare benefits package divided by the appropriate minimum wage.

- In conducting the hours-of-work computation, states must count cash and other benefits under Title IV-A and food stamps.
- States may count Medicaid, child care, and housing benefits (for the purpose of valuing Medicaid, the Secretary of HHS must publish an annual table of the insurance value of Medicaid coverage for families of various sizes. The Secretary may include geographical variations in her table).
- States may (in addition to the step above) satisfy any remaining hours of the work requirement by counting job search, job readiness activities, basic skills education, vocational education training, job skills training, high school or GED completion. None of these additional activities would be subject to the Fair Labor Standards Act.

Example: The State of Freedonia has a minimum wage of \$6 per hour, and a typical family receives \$400 in cash welfare and \$200 in food stamps per month. The current work requirement is 30 hours per week or 120 hours per month. Because the value of the welfare benefit package (\$600 in cash plus food stamps) is not enough to cover the minimum wage (\$6 times 120 hours, meaning the package "pays" \$5 per hour), the State has three choices: (1) count other benefits (such as child care, housing, or Medicaid) in calculating the total welfare benefits package; (2) satisfy the remaining 5 hours of work required per week* through education and training activities listed above; or (3) some combination of (1) and (2).

*\$600 in basic benefits divided by the minimum wage of \$6 equals 100 hours of work per month payable at the minimum wage, leaving a remainder of 20 hours per month or 5 hours per week.

OPU/Comm
edit. fight - bring in gpa
Hold but dev. of to sheet. + overwriting the
Tues. ExecComm

FLSA: House a disaster - MA - drafting disaster
Even EITC!! Talked to ATSCME/Marie Monrad
STW statute - DOL guidelines - try, not a job on bks
→ No FLSA, no min wage → Trainee
WK exp like -
Went by 6 pt test in law

Q - Grant - CS = net grant - like to good looking
Q - paycheck (Lyn + Bev)

hardest to serve → 6/6 Elaine
Greenberg hates to house-hates Matsui, Negus, Huffer
Q PIC a mistake - 85% of 40%
hr prev wk exp.

mayms patchy w/ PICS
Q rural pr - 50% to highest pov - appeal.
Q 30 mbs - Ct + others Q VE - same as 1
uses - 1 yr away
88% more - more than Calif. (EZs/ECs)

OPTIONS

- Exempt from FLSA and/or related labor protection laws (doesn't help states meet minimum wage)
- Allow states to count other benefits toward the minimum wage:
 - Medicaid
 - child care
 - housing
 - transportation
- Weaken work requirements by allowing states to meet more of the work requirements through education or training
- Exempt workfare from FICA/EITC, if necessary
- Other options?

Related Questions to answer:

- Does the Ways and Means proposal permit states to count training toward the minimum wage only after they have exhausted the other device for meeting the minimum wage (counting other benefits)?
- Does the Ways and Means proposal remove protections for race, gender, disability discrimination?
- How easy is it for states to meet the 30 hour work requirement via training?

FAX COVER SHEET

Janet Murguia, Leg Affairs (WH)
Susan Brophy, Leg Affairs (WH)

Date: May 23, 1997
To: See List Below
From: Cynthia Rice, White House Domestic Policy Council (456-2846)
Page: 3 (including cover)

LAST	FIRST	AGENCY	PHONE	FAX
Tarplin	Richard	HHS	690-7627	690-7380
Rosewater	Ann	HHS	690-7409	690-6562
Golden	Olivia	HHS	401-2337	401-4678
Oellerich	Donald	HHS	690-7409	690-6562
Bourdette	Mary	HHS	690-7850	690-8425
Cohen	Mary	HHS	401-2337	401-4562
Shelbourne	Robert	HHS	401-2337	401-4562
Monahan	John	HHS	690-6060	690-5672
Garrison	David	HUD	690-7858	690-7383
Stegman	Michael	HUD	708-1600	619-8000
Leonard	Paul	HUD	708-3896	708-0309
Harris	Seth	Labor	219-6181	219-6924
Palast	Geri	Labor	219-4692	219-5288
Finegan	Terrence	Labor	219-6050	219-6827
Uhalde	Ray	Labor	219-6050	219-6827
Barr	Michael	Treasury	622-0016	622-0073
Gruber	Jonathan	Treasury	622-0563	622-2633
Fortuna	Diana	WH/DPC	456-5570	456-7431
Lewis	Anne	WH/NEC	456-2802	456-2223
Parker	Emil	WH/NEC	456-2809	456-5802
Apfel	Kenneth	WH/OMB	395-4844	395-5730
Fontenot	Keith	WH/OMB	395-4686	395-4875
Matlack	Larry	WH/OMB	395-3262	395-1596
Higgins	Kathryn	WH/Labor	456-2572	456-6704
Bromberg	Emily	WH/IGA	456-2896	456-2889
Levine	Phil	WH/CEA	395-4597	395-6853

Rice
Kagan
Cynthia
Elena

Withdrawal/Redaction Marker

Clinton Library

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001. fax	To List from Cynthia Rice (partial, DOB, SSN) (1 page)	04/23/1997	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Diana Fortuna
OA/Box Number: 12021

FOLDER TITLE:

FLSA [Fair Labor Standards Act] 2 [1]

2018-0525-S

ry2242

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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FAX COVER SHEET

Janet Murguia, Leg Affairs (WH)
Susan Brophy, Leg Affairs (WH)

Date: May 23, 1997
To: See List Below
From: Cynthia Rice, White House Domestic Policy Council (456-2846)
Page: 3 (including cover)

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William Kamela

(b)(6)

[001]

Rice
Kagan

Cynthia
Elena



DATE: _____

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
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OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
HUMAN SERVICES LEGISLATION
ROOM 413 H HUMPHREY BUILDING

TO : Deana Feltz [☒] MARY M. BOURDETTE
OFFICE : _____ [] BARBARA P. CLARK
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[] LAUREN GRIFFIN
[] LULA BARNES
TOTAL PAGES INCLUDING COVER) : 7

REMARKS:

no change in
FAs -

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TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Alaska	\$821	\$231	\$1,052	\$12.23	\$0
Hawaii	\$565	\$357	\$922	\$10.72	\$0
Vermont	\$533	\$172	\$705	\$8.20	\$0
Connecticut	\$513	\$178	\$691	\$8.03	\$0
New York	\$468	\$203	\$671	\$7.80	\$0
New Hampshire	\$481	\$188	\$669	\$7.76	\$0
California	\$479	\$188	\$667	\$7.76	\$0
Rhode Island	\$449	\$218	\$667	\$7.76	\$0
Massachusetts	\$474	\$190	\$664	\$7.72	\$0
Washington	\$440	\$218	\$658	\$7.65	\$0
Wisconsin	\$440	\$200	\$640	\$7.44	\$0
Minnesota	\$437	\$201	\$638	\$7.42	\$0
Oregon	\$395	\$218	\$613	\$7.13	\$0
South Dakota	\$380	\$218	\$598	\$6.95	\$0
Michigan	\$371	\$218	\$589	\$6.85	\$0
Iowa	\$361	\$218	\$579	\$6.73	\$0
Kansas	\$352	\$218	\$570	\$6.63	\$0
Montana	\$349	\$218	\$567	\$6.59	\$0
Utah	\$342	\$218	\$560	\$6.51	\$0
North Dakota	\$333	\$218	\$551	\$6.41	\$0
Pennsylvania	\$330	\$218	\$548	\$6.37	\$0
Dist. of Columbia	\$326	\$218	\$544	\$6.33	\$0
New Jersey	\$322	\$218	\$540	\$6.28	\$0
Wyoming	\$320	\$218	\$538	\$6.26	\$0
Maine	\$312	\$218	\$530	\$6.16	\$0
New Mexico	\$310	\$218	\$528	\$6.14	\$0
Virginia	\$294	\$218	\$512	\$5.95	\$0
Nebraska	\$293	\$218	\$511	\$5.94	\$0
Maryland	\$292	\$218	\$510	\$5.93	\$0
Nevada	\$289	\$218	\$507	\$5.90	\$0
Colorado	\$280	\$218	\$498	\$5.79	\$0
Ohio	\$279	\$218	\$497	\$5.78	\$0
Illinois	\$278	\$218	\$496	\$5.77	\$0
Arizona	\$275	\$218	\$493	\$5.73	\$0
Delaware	\$270	\$218	\$488	\$5.67	\$0
Idaho	\$251	\$218	\$469	\$5.45	\$0
Virgin Islands	\$180	\$281	\$461	\$5.36	\$0
Florida	\$241	\$218	\$459	\$5.34	\$0

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TABLE TWO: FAMILY OF TWO

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of two

State	Maximum Monthly AFDC Benefit July 1996 For a family of 2	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Oklahoma	\$238	\$218	\$456	\$5.30	\$0
North Carolina	\$236	\$218	\$454	\$5.28	\$0
Georgia	\$235	\$218	\$453	\$5.27	\$0
Missouri	\$234	\$218	\$452	\$5.26	\$0
Indiana	\$229	\$218	\$447	\$5.20	\$0
Kentucky	\$225	\$218	\$443	\$5.15	\$0
West Virginia	\$201	\$218	\$419	\$4.87	\$24
Texas	\$163	\$218	\$381	\$4.43	\$62
Arkansas	\$162	\$218	\$380	\$4.42	\$63
South Carolina	\$159	\$218	\$377	\$4.38	\$66
Tennessee	\$142	\$218	\$360	\$4.19	\$83
Louisiana	\$138	\$218	\$356	\$4.14	\$87
Alabama	\$137	\$218	\$355	\$4.13	\$88
Mississippi	\$96	\$218	\$314	\$3.65	\$129

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage.
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

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TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Alaska	\$923	\$321	\$1,244	\$14.47	\$0
Hawaii	\$712	\$471	\$1,183	\$13.76	\$0
Connecticut	\$636	\$236	\$872	\$10.14	\$0
Vermont	\$633	\$237	\$870	\$10.12	\$0
Rhode Island	\$554	\$299	\$853	\$9.92	\$0
New York	\$577	\$270	\$847	\$9.85	\$0
California	\$596	\$248	\$844	\$9.81	\$0
Washington	\$546	\$289	\$835	\$9.71	\$0
Massachusetts	\$565	\$257	\$822	\$9.56	\$0
New Hampshire	\$550	\$262	\$812	\$9.44	\$0
Minnesota	\$532	\$267	\$799	\$9.29	\$0
Wisconsin	\$517	\$272	\$789	\$9.17	\$0
Oregon	\$460	\$313	\$773	\$8.99	\$0
Michigan	\$459	\$300	\$759	\$8.83	\$0
Kansas	\$429	\$313	\$742	\$8.63	\$0
Montana	\$438	\$295	\$733	\$8.52	\$0
New Jersey	\$424	\$307	\$731	\$8.50	\$0
North Dakota	\$431	\$298	\$729	\$8.48	\$0
South Dakota	\$430	\$298	\$728	\$8.47	\$0
Utah	\$426	\$299	\$725	\$8.43	\$0
Iowa	\$426	\$299	\$725	\$8.43	\$0
Pennsylvania	\$421	\$301	\$722	\$8.40	\$0
Maine	\$418	\$301	\$719	\$8.36	\$0
Dist. of Columbia	\$415	\$302	\$717	\$8.34	\$0
New Mexico	\$389	\$310	\$699	\$8.13	\$0
Illinois	\$377	\$313	\$690	\$8.02	\$0
Maryland	\$373	\$313	\$686	\$7.98	\$0
Nebraska	\$364	\$313	\$677	\$7.87	\$0
Wyoming	\$360	\$313	\$673	\$7.83	\$0
Colorado	\$356	\$313	\$669	\$7.78	\$0
Virginia	\$354	\$313	\$667	\$7.76	\$0
Nevada	\$348	\$313	\$661	\$7.69	\$0
Arizona	\$347	\$313	\$660	\$7.67	\$0
Ohio	\$341	\$313	\$654	\$7.60	\$0
Delaware	\$338	\$313	\$651	\$7.57	\$0
Virgin Islands	\$240	\$402	\$642	\$7.47	\$0
Idaho	\$317	\$313	\$630	\$7.33	\$0
Oklahoma	\$307	\$313	\$620	\$7.21	\$0

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TABLE ONE: FAMILY OF THREE

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of three

State	Maximum Monthly AFDC Benefit July 1996 for a family of 3	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Florida	\$303	\$313	\$616	\$7.16	\$0
Missouri	\$292	\$313	\$605	\$7.03	\$0
Indiana	\$288	\$313	\$601	\$6.99	\$0
Georgia	\$280	\$313	\$593	\$6.90	\$0
North Carolina	\$272	\$313	\$585	\$6.80	\$0
Kentucky	\$262	\$313	\$575	\$6.69	\$0
West Virginia	\$253	\$313	\$566	\$6.58	\$0
Arkansas	\$204	\$313	\$517	\$6.01	\$0
South Carolina	\$200	\$313	\$513	\$5.97	\$0
Louisiana	\$190	\$313	\$503	\$5.85	\$0
Texas	\$188	\$313	\$501	\$5.83	\$0
Tennessee	\$185	\$313	\$498	\$5.79	\$0
Alabama	\$164	\$313	\$477	\$5.55	\$0
Mississippi	\$120	\$313	\$433	\$5.03	\$10
Puerto Rico	\$180	NA	NA	\$0.00	NA

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
3. The min. wage is currently \$4.75 an hour but will increase to \$5.15 on 9/1/97. The tables use \$5.15 as the wage
4. While the number of hours required for single parent participation does not increase to 30 until FY 2000, only 20 of those hours must be within the activities described in Sec. 407. As a result states could place recipients in training for 10 of the 30 hours and not be required to pay the minimum wage for the 10 hours of training.
5. Families may receive less than the maximum benefit for several reasons. While the table lists no additional costs for many states, it is likely that each state will have some cases in which food stamp benefits combined with TANF benefits would not meet the minimum wage.
6. AFDC benefits are calculated by the Congressional Research Service.

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TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Hawaii	859	567	\$1,426	\$16.58	\$0
Alaska	1,025	399	\$1,424	\$16.56	\$0
Connecticut	741	289	\$1,030	\$11.98	\$0
New York	687	325	\$1,012	\$11.77	\$0
Vermont	711	298	\$1,009	\$11.73	\$0
California	707	299	\$1,006	\$11.70	\$0
Rhode Island	632	365	\$997	\$11.59	\$0
Washington	642	349	\$991	\$11.52	\$0
Massachusetts	651	316	\$967	\$11.24	\$0
Minnesota	621	325	\$946	\$11.00	\$0
Wisconsin	617	326	\$943	\$10.97	\$0
Oregon	565	377	\$942	\$10.95	\$0
New Hampshire	613	327	\$940	\$10.93	\$0
Michigan	563	352	\$915	\$10.64	\$0
Kansas	497	383	\$880	\$10.23	\$0
Montana	527	353	\$880	\$10.23	\$0
Maine	526	353	\$879	\$10.22	\$0
North Dakota	517	356	\$873	\$10.15	\$0
Pennsylvania	514	357	\$871	\$10.13	\$0
Dist. of Columbia	507	359	\$866	\$10.07	\$0
New Jersey	488	373	\$861	\$10.01	\$0
Utah	498	361	\$859	\$9.99	\$0
Iowa	495	362	\$857	\$9.97	\$0
South Dakota	478	367	\$845	\$9.83	\$0
Maryland	450	391	\$841	\$9.78	\$0
New Mexico	469	370	\$839	\$9.76	\$0
Nebraska	435	380	\$815	\$9.48	\$0
Colorado	432	381	\$813	\$9.45	\$0
Virgin Islands	300	511	\$811	\$9.43	\$0
Ohio	421	385	\$806	\$9.37	\$0
Illinois	414	392	\$806	\$9.37	\$0
Arizona	418	385	\$803	\$9.34	\$0
Virginia	410	388	\$798	\$9.28	\$0
Nevada	408	388	\$796	\$9.26	\$0
Delaware	407	389	\$796	\$9.26	\$0
Wyoming	390	394	\$784	\$9.12	\$0
Idaho	382	396	\$778	\$9.05	\$0

For Illustrative Purposes Only

TABLE THREE: FAMILY OF FOUR

The Difference Between the Minimum Wage and the
July 1996 Monthly Maximum Benefits for a family of four

State	Maximum Monthly AFDC Benefit July 1996 For a family of 4	Maximum Monthly Food Stamps Benefit July 1996	Combined AFDC and Food Stamps Benefits	Effective Hourly Wage Rate of Combined Benefits for 20 hrs/wk/mo	Additional Monthly Cost/Case of Minimum Wage for 20 hours/week for 4.3 weeks/mo.
Oklahoma	380	397	\$777	\$9.03	\$0
Florida	364	397	\$761	\$8.85	\$0
Indiana	346	397	\$743	\$8.64	\$0
Missouri	342	397	\$739	\$8.59	\$0
Georgia	330	397	\$727	\$8.45	\$0
Kentucky	328	397	\$725	\$8.43	\$0
West Virginia	312	397	\$709	\$8.24	\$0
North Carolina	297	397	\$694	\$8.07	\$0
Arkansas	247	397	\$644	\$7.49	\$0
South Carolina	241	397	\$638	\$7.42	\$0
Louisiana	234	397	\$631	\$7.34	\$0
Tennessee	226	397	\$623	\$7.24	\$0
Texas	226	397	\$623	\$7.24	\$0
Alabama	\$194	397	\$591	\$6.87	\$0
Mississippi	144	397	\$541	\$6.29	\$0

Notes:

1. This table uses the maximum monthly AFDC benefits as of July 1996. States have more flexibility under TANF to determine benefit levels and may choose to provide higher or lower benefits than suggested in this table. Food Stamp benefits have increased slightly since 7/96 (\$2 for a family of 3).
2. The maximum food stamp benefit assumes 100% excess shelter, no child support, no medical deductions etc.
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FAX COVER SHEET

May 29, 1997

TO: Diana Fortuna

FAX: 456-7431

FROM: Stacey Grundman

MESSAGE: For your (and Elena's) comments. As discussed.

**DRAFT DOCUMENT 5/27/97 @ 6PM
--FOR INTERNAL USE ONLY--**

**QUESTIONS & ANSWERS
ON THE APPLICATION OF LABOR STANDARDS
TO TANF PARTICIPANTS**

1. **Can you provide a list of the labor protections to which welfare recipients will be entitled?**

Welfare recipients who are employees will be subject to the same federal labor protections as any other workers. Because of variations in state laws and the variations of labor standards among specific jobs and industries, it is not possible to prepare a complete list of labor standards that will apply to all such workers. (For example, there is no federal overtime requirement in agriculture. Employees engaged in door-to-door sales are not subject to the federal minimum wage. And newspaper delivery persons are exempt from the federal child labor rules.) In general, however, such participants are likely to be eligible for:

- (1) Minimum wage;
- (2) Overtime pay;
- (3) Child labor protections;
- (4) Unemployment insurance;
- (5) Workers' compensation;
- (6) Safety and health standards; and
- (7) Equal employment opportunity protections.

2. **Does the FLSA apply to welfare recipients who are required to work? How would the FLSA be enforced for TANF recipients?**

The FLSA has a very broad definition of employment that applies to welfare recipients who are required to work just as it does to any other worker. Some TANF recipients will participate in work activities that would be considered training activities under the FLSA, such as GED classes. If a welfare recipient is considered a trainee (and not an employee) under the FLSA, the minimum wage would not apply. But in most cases, where welfare recipients in work activities will be performing some kind of work for a private company or a public agency, they will be entitled to the minimum wage, just like other workers are entitled to the minimum wage.

The goal of welfare reform is to move people from the dependency of welfare to productive employment that can raise American families and their children out of poverty. Assuring that welfare recipients who work receive the minimum wage complies with the law while advancing this goal.

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Participants in work programs who believe that their employer is not complying with the law can, just like any other worker, file a complaint with the Department's Wage and Hour Division or file a private lawsuit in court.

3. What is an example of the type of work activity that would constitute training which would not be employment under the Fair Labor Standards Act?

TANF recipients can participate in work activities that constitute training which would not be employment under the FLSA. Where the training meets the FLSA criteria, participants are not required to be compensated at the minimum wage because they are not "employees." The standard FLSA test provides that an employment relationship does NOT exist in that situation if:

- 1) the training is similar to that which would be given in a vocational school;
- 2) the training is for the benefit of the employee;
- 3) the trainee does not displace a regular employee;
- 4) the employer derives no immediate advantage from the trainee's activities;
- 5) the trainee is not entitled to a job after the training is completed; and
- 6) the employer and the trainee understand that the employer will not pay the trainee wages or other compensation.

In situations where the training is not connected with any employment and is provided in a school setting, the trainee is likely to be classified as a "trainee" and not as an "employee." On the other hand, where the training is provided in a work-based setting, a determination of whether "work" is being performed and an employment relationship exists is more difficult. In either case, the FLSA test must be applied to the specific facts of the situation in order to make a determination.

For example, a trainee may learn to weld by working beside and under the supervision of an experienced welder at a manufacturing plant, without expecting compensation. If the employer gets no benefit from the trainee's activities, because the time and effort the welder spends in closely observing the trainee outweighs any usefulness, and there is no guarantee that the employer will hire the trainee after the training, the test for employee status probably would not be met.

4. Considering all of the valuable training and workforce experience they will be receiving in these welfare-to-work programs, why should welfare recipients be guaranteed a minimum wage?

plus 30 min rpt?

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As people move from welfare to work, one of the most important lessons they can learn is that work pays. Paying them less than the minimum wage defeats this purpose, because no one can achieve self-sufficiency and raise a family on less than the minimum wage. That's why Congress, at the President's behest, raised the minimum wage last year from \$4.25 an hour -- a level at which, even with the Earned Income Tax Credit and food stamps, a single mother or father with two kids and a full-time minimum wage job did not make enough to rise above the poverty level.

Raising the minimum wage is a signal that the nation should reward -- and not hold back -- people who try their very best to make it on their own. Welfare recipients should not be excepted from that ideal. To do so would be to send the wrong message to Americans who are moving from welfare to work.

5. If welfare recipients have to be paid the minimum wage, doesn't that undermine the President's Welfare-to-Work Challenge?

No. The President's Welfare-to-Work Challenge is dedicated to moving welfare recipients into long-term private sector jobs by providing \$3 billion in funding for job placement and job creation. States and cities can use these funds to provide subsidies and other incentives to encourage private businesses to hire welfare recipients. The requirement that welfare recipients who are required to work must be paid at least the minimum wage is entirely consistent with the goal of moving people into real jobs at fair wages.

6. Does the decision in Johns v. Stewart mean that welfare recipients working under TANF are not entitled to the minimum wage for their hours of work?

No. Johns, 57 F.3d 1544(10th Cir. 1995), did not arise under TANF, but under two Utah state general assistance programs under which recipients were required to participate in a variety of rehabilitative and self-sufficiency activities, including community work. This case is distinguishable on that basis. Moreover, the court only held that the general assistance recipients were not employees of the State, but did not examine the relationship between the recipients of the assistance and the entities (Weber County Division of Aging and Brigham City Corporation) for whom they actually performed work.

We also believe that the Johns court did not properly apply the principles of the FLSA. Johns recognizes that the FLSA has a very broad definition of the terms "employ" and "employee" and that the question of whether an individual is an employee turns on the "economic realities" of the situation. Nevertheless, the court incorrectly focused upon irrelevant factors (such as that there were rehabilitative aspects to the general assistance programs) and ignored the factors ordinarily examined by the courts to determine whether an employment

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relationship exists. Therefore, we do not think that the Johns case is useful in analyzing whether individuals who participate in TANF work activities are employees entitled to the minimum wage.

7. Is the DOL only studying FLSA and its applicability to welfare recipients in work activities at the urging of the unions?

No. Whether someone is an employee entitled to the minimum wage has nothing to do with politics or unions. The law requires that the applicability of the minimum wage be determined regardless of whether an individual is on welfare or not.

The American people understand the need to be fair in this issue. We want welfare recipients to work and they need to be paid the minimum wage. We need to move people away from welfare dependency to work-- but we need to help them make enough to achieve self sufficiency.

8. Is it legal to pay welfare recipients a training wage? If so, is there a time limit?

There is no "training wage" provision in the Fair Labor Standards Act. Under some circumstances, individuals who are trainees are not employees under the FLSA rules and therefore don't have to be paid the minimum wage. There is no specific time limit on a program that qualifies as training under the FLSA. (See Question #3.)

The FLSA does allow the payment of a subminimum wage to newly hired employees under 20 years of age for a strictly limited period of time. The FLSA's youth subminimum wage provisions -- enacted with the 1996 minimum wage increase -- do not require any training. The President strongly opposed the subminimum wage when it was proposed last year.

The FLSA's subminimum wage -- \$4.25 an hour -- may be paid only to an employee under 20 years of age during his/her first 90 consecutive calendar days of employment with an employer. Welfare recipients are treated the same as any other workers under these provisions. Consequently, as with any other worker, if a welfare recipient who is under age 20 performs work that is subject to the FLSA, he or she can be paid the subminimum wage for the first 90 consecutive calendar days of employment with an employer.

Employers are prohibited from displacing employees in order to hire youth at the subminimum wage. Also prohibited are "partial displacements" such as reducing other employees' hours, wages, or employment benefits.

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9. **Why not permit a special, lower minimum wage for welfare recipients who are placed in work assignments? They are not going to be as productive as other workers. They are going to need a lot of training.**

The President strongly opposed the new subminimum wage for workers under age 20 when it was proposed last year. Welfare reform is supposed to move people from the dependency of welfare into real jobs, with real pay and real futures—jobs that lead to self sufficiency and independence. That means paying at least the minimum wage.

As President Clinton said in signing the new minimum wage into law last year:

“If we want to really revolutionize America's welfare system and move people from welfare to work and reward work... the first, ultimate test we all have to meet [is]: If you get up every day and you go to work, and you put in your time and you have kids in your home, you and your children will not be in poverty”.

To pay welfare recipients less than the minimum wage would undermine the goal of self sufficiency.

10. **While the government is out there taking care of TANF participants and ensuring them the minimum wage, what happens to low-wage workers in this country who aren't on welfare?**

The President has done a great deal to help low-wage workers. He has increased the minimum wage, expanded the EITC, increased access to pensions, signed the Family Medical Leave Act, and improved health insurance portability because of his concern for improving the economic condition of low and moderate income working Americans.

The President initiated welfare reform to remove the barriers to work that have kept many welfare recipients trapped in dependency. The goal of TANF is to move these individuals into the economic mainstream of working men and women. Enforcing labor laws so that welfare recipients are paid the minimum wage for their work will help achieve this goal.

Moreover, according to a recent study by the Urban Institute, paying TANF participants who work the minimum wage does not make them better off than other low-wage workers. The study finds that in low benefit states (such as Mississippi) and medium benefit states (such

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as Illinois) a TANF participant who works 20 hours per week would have a lower income than a minimum wage worker working 20 hours a week in that state.¹

11. What has the President said about the relationship between work, welfare reform and the minimum wage?

The President has consistently called for moving welfare recipients into real jobs at fair wages that offer real opportunities for independence and self sufficiency. For example:

- (1) "Welfare reform should be about work. Welfare should provide people the opportunity to move from welfare to work as quickly as possible.

In return, people must take responsibility for supporting themselves and their families. All those who can work must go to work to support their families."

[President Clinton, "Rebuilding America For A New Era"]

- (2) "Two days ago we signed a bill increasing the minimum wage here and making it easier for people in small businesses to get and keep pensions. Yesterday we signed the Kassebaum-Kennedy bill which makes health care more available to up to 25 million Americans, many of them in lower-income jobs where they're more vulnerable.

The bill I'm signing today preserves the increases in the earned income tax credit for working families. It is now clearly better to go to work than to stay on welfare -- clearly better. Because of actions taken by the Congress in this session, it is clearly better. And what we have to do now is to make that work a reality."

[President Clinton, in his remarks at the signing of The Personal Responsibility And Work Opportunity Reconciliation Act, August 22, 1996]

¹ "Comparison of Wages and Benefits of TANF Workers and non-TANF Low-Wage Workers," by Pamela Loprest. The Urban Institute, April 14, 1997. Low and medium benefit states are likely to meet the minimum wage requirement for covered TANF participants by combining the TANF cash benefit and the cash value of the food stamps benefit (under applicable food stamps programs). Eligible low-wage workers are likely to receive food stamps on top of the minimum wage they earn at work.

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- (3) "This week I will sign into law an increase in the minimum wage. For those who work hard to stay off welfare, but can't live on \$4.25 an hour, this is a very important act. It will truly honor work and family."

[President Clinton, Radio Address, August 17, 1996]

- (4) "Together with our tax cut for working families, this [minimum wage] bill ensures that a parent working full-time at the minimum wage can lift himself or herself and their children out of poverty. Nobody who works full-time with kids in the home should be in poverty. If we want to really revolutionize America's welfare system and move people from welfare to work and reward work... the first, ultimate test we all have to meet [is]: If you get up every day and you go to work, and you put in your time and you have kids in your home, you and your children will not be in poverty."

At its heart, this bill does reaffirm our most profoundly American values, offering opportunity to all, demanding responsibility from all and coming together as a community to do the right thing."

[President Clinton in his remarks on signing the minimum wage bill, August 20, 1996]

- (5) "Welfare as we knew it was a bad deal for everyone. We're determined to create a better deal. We want to say to every American, work pays. We raised the minimum wage; we expanded the earned income tax credit to allow the working poor to keep more of what they earn. Now we have to create a million jobs for people on welfare by giving businesses incentives to hire people off welfare and enlisting the private sector in a national effort to bring all Americans into the economic mainstream."

[President Clinton, Radio Address, December 7, 1996.]

- (6) "We continue to take action to value work and to value families. I fought for and signed legislation that raises the minimum wage by 90 cents over two years. This action will significantly improve the lives of 10 million Americans by rewarding work and responsibility and ensuring that work pays."

[President Clinton, *Florida Times-Union*, September 22, 1996]

- (7) "It's time to honor and reward people who work hard and play by the rules. That means ending welfare as we know it . . . Empower people with the education, training, and child care they need for up to two years, so they can break the cycle of

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dependency; expand programs to help people learn to read, get their high school diplomas or equivalency degrees, and acquire specific job skills; and ensure that their children are cared for while they learn. After two years, require those who can work to go to work, either in the private sector or in community service; provide placement assistance to help everyone find a job, and give the people who can't find one a dignified and meaningful community service job."

[Bill Clinton and Al Gore, *Putting People First*]

- (8) "Under the increase which the Congress voted in 1993 in the earned income tax credit, 15 million working families have been given a tax cut -- it's worth about \$1,000 in lower taxes to a family of four with an income of less than \$28,000, and that's most Hispanic families in the United States. And that's one big reason that the welfare rolls are down, because we're making work pay. On October 1st, 10 million more Americans will get a pay raise when the minimum wage increase goes into effect."

[President Clinton, in his remarks at the Congressional Hispanic Caucus Institute Dinner, September 25, 1996]

- (9) "On Tuesday, the Senate voted to pass a 90-cent increase in the minimum wage. It's about time. You can't raise a family on \$4.25 an hour, and if we don't raise it, the minimum wage will fall to a 40-year low this year in terms of what it will buy. So I congratulate the Republican members of Congress who joined with the Democrats to honor work and family, opportunity and responsibility, by voting to give minimum wage workers a raise."

[President Clinton, Radio Address, July 13, 1996]

- (10) "On this 4th of July weekend, I want to talk about one thing that is at the root of all of our independence -- going to work. It makes you self-sufficient. It makes you and your family truly independent.

Unfortunately, millions of Americans are not independent because they are dependent on welfare. The vast majority of these Americans dream the same dreams most of us do. They want the same dignity that comes from going to work and the pride that comes from doing right by their children. They want to be independent.

Today I'm pleased to announce that Virginia will receive the newest waiver. Virginia's plan requires people on welfare to go to work. Like the states of Oregon,

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Missouri and a few others, it also allows money now spent on welfare and food stamps to go to employers to supplement wages to help create jobs in the private sector. And it helps people get child care. It's a good plan, and I'm proud to be supporting it."

[President Clinton, Radio Address, July 1, 1995]

- (11) "Our job is to create opportunity for those who take responsibility to work hard and lift themselves up. Those are the values that have always sustained us and kept us a great nation. That's why we fought so hard for the earned income tax credit in 1993 -- a working family tax cut for 15 million families with incomes under \$26,000. And that's why I now call on Congress to raise the minimum wage .90 to \$5.15 an hour over the two years.

In terms of real buying power, the minimum wage will be at a 40-year low next year if we don't increase it above where it is now at \$4.25 an hour. As I told the Congress, already just this year in one month of work, members of Congress have earned more than full-time minimum wage workers earn all year long. Nobody can live on \$4.25 an hour and, yet, 2.5 million Americans are working for just that amount, and many of them have children to feed. Millions more are just above the minimum wage.

The only way to strengthen the middle class and shrink the underclass is to ensure that hard work pays. Increasing the minimum wage is an important part of our strategy to do that. Congress is considering other economic strategies now as well. The test for all of these ideas should be: Do they reward work? Do they grow the middle class and shrink the underclass? Do they build economic opportunity in America? I believe, for example, if we're really serious about welfare reform, increasing the minimum wage will plainly help.

More than anything, I want to give a genuine bipartisan welfare reform effort the best chance it can to produce a bill that we can all be proud of, a bill that will encourage work and responsible parenting and independence. But welfare reform can't possibly succeed unless the people we expect to leave welfare and go to work are rewarded for their labors."

[President Clinton, Radio Address, February 5, 1995]

12. **Have states' welfare plans been approved by HHS already? Does this mean that states are in compliance with employment laws?**

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HHS does not approve state welfare plans -- it merely certifies that they are "complete". Most of the plans which have been submitted have already been certified as complete. A "complete" plan includes information addressing each of the areas laid out in the statute for State TANF plans, including establishment of goals and actions to prevent and reduce the incidence of out-of-wedlock pregnancies and ensuring that parents and caretakers receiving assistance under the program engage in work activities. HHS makes no substantive judgments about the contents of the plans, nor does it make any judgment about whether the plans or their implementation comply with federal employment laws.

- 13. It appears the Federal and State governments will have to pay more than expected to move people off welfare. Where will the Governors and Mayors find resources to move people from welfare to work?**

New block grant rules and declining caseloads have resulted in many states having more flexible resources and additional funds available per welfare household this fiscal year. In addition, states may use their state-only welfare funds to serve a variety of needs and special populations. We are encouraging states and localities to maintain their investment in low-income families and use all resources to move people from welfare to work.

The President has proposed the Welfare-to-Work Jobs Challenge, which would make additional funding available to States and localities for the purpose of placing the hardest-to-serve recipients into lasting jobs. States and localities would be expected to coordinate these funds with private and other public sector resources, including TANF block grant dollars, JTPA funds and the Work Opportunity Tax Credit.

The President has also proposed a "super" Work Opportunity Tax Credit for long-term welfare recipients--employers could receive a credit equal to 50 percent of the first \$10,000 in wages for each of two years, making for a maximum credit of \$10,000, as opposed to \$2,100 under the regular WOTC. In addition, the existing WOTC would be expanded to include able-bodied childless food stamps recipients aged 18-50. Creation of this targeted credit would further increase the resources available for welfare-to-work efforts.

- 14. What is the history of federal jobs programs intended to move welfare participants into work activities? Have recipients been paid or exempt from the minimum wage?**

Federal jobs programs intended to move people out of poverty or unemployment over the last 60 years generally have required that participants receive at least the minimum wage, as illustrated in the following chart.

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<u>Program</u>	<u>Not less than MW or Equivalent</u>	<u>Compensation Standards</u>
Works Progress Administration (1935 - 1943)	Yes	Prevailing wages ²
Community Work and Training Program (1962 - 1967)	Yes	Hours set by grant divided by prevailing wages
Work Incentive Program (1967 - 1988)	Not Available ³	AFDC grant only (no record of hours; included training)
Comprehensive Employment and Training Act (1973 - 1982)	Yes	Prevailing wages
Community Work Experience Programs (1981 - Present)	Yes	Hours set by grant divided by FLSA minimum wage
Alternative Work Experience Programs (1988 - Present)	Not Available ⁴	AFDC grant only (no record of hours; may include training)

A brief description of each of these federal programs follows.

² The prevailing wage is the wage rate paid for comparable work in the locality. It is always at least the minimum wage, and usually higher.

³ The WIN Program combined job readiness training, job search and other activities not considered work under the FLSA.

⁴ Similar to WIN, AWEF is a variation of CWEP which provides increased flexibility to the States in structuring work and training programs with sponsors. State plans are approved by HHS as an alternative to CWEP.

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WPA

The purpose of the Works Progress Administration (WPA) (1935 - 1943) was to move employable individuals from federal relief programs to a very wide variety of work projects.

WPA wages were paid at a level that was termed a "security" level, which was initially intended to be higher than the federal relief payments, but lower than prevailing wages. Many unions and others objected that the WPA's practice of paying security wages was lowering wages in the private sector. Consequently in its second year of operation, the wage rates paid under the WPA were raised to the prevailing hourly wages at the same time that the number of hours worked each month was reduced, so that the monthly amounts paid did not increase.

CWT

The first federal effort to require welfare recipients to work was the Community Work and Training Program (CWT) that accompanied the creation of the AFDC-U program in 1962. (The AFDC-U gave the states the option of providing assistance for children in two-parent households in which the father was unemployed.) States could require AFDC-U recipients to "work off" the amount of assistance they received at a community job, with the number of work hours determined by the prevailing community wage rate for comparable work.

Usage of this optional provision by the states was extremely limited.

WIN

In 1967, Congress created the Work Incentive Program (WIN), which added work requirements for able-bodied fathers, out of school youths aged 16 or older, and other adults receiving AFDC who were not themselves parents. The program provided that when an individual became employed, the first \$30 of earnings per month plus one-third of the remainder would be excluded from income in calculating the welfare benefit.

The WIN program included training, education, and unpaid work experience, under which the participant received no remuneration other than the welfare benefits. The work experience lasted up to 13 weeks of unpaid work activities, with an allowance for work-related expenses.

In 1971 Congress amended the WIN program to include more emphasis on employment training and job search. Among those who participated in WIN, very few ever performed work in exchange for welfare.

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CETA

The Comprehensive Employment and Training Act (CETA), enacted in 1973 and administered by DOL until its repeal in 1982, contained provisions for on-the-job training and public service employment targeted to areas of unemployment of 6.5 percent or more. Wages paid under either component were required to be the highest of: the FLSA minimum wage; the state minimum wage; the prevailing wage for persons similarly employed; the minimum entrance wage rate for inexperienced workers in the same occupation in the establishment; the wage rate required by an applicable collective bargaining agreement; or the prevailing wage rate under the Davis-Bacon Act, if applicable.

1981 Omnibus Budget Reconciliation Act

In 1981, Congress gave the states greater latitude in administering WIN and imposing work requirements. The states could run the following optional programs:⁵

- (1) *WIN Demonstration Programs* - The states could administer WIN demonstration programs (as described above) with greater flexibility on the mix of services.
- (2) *Community Work Experience Programs* - CWEP required that the hours worked by participants not exceed the amount they received in grants divided by the FLSA minimum wage.
- (3) *Job Search Programs* (added in 1982) - The states could adopt mandatory job search activities or job referral programs for AFDC recipients.
- (4) *Work Supplementation Programs* (added in 1984) - The states were permitted to use AFDC grants to subsidize on-the-job training for welfare recipients with a public or private employer.

JOBS

In 1988, Congress passed the Family Support Act, which included nearly \$5 billion in initial funding to be spent between 1989 and 1995 on the Job Opportunities and Basic Skills Training Program (JOBS). JOBS remained in place until it was replaced by the recent TANF legislation.

⁵ As indicated, CWEP had special pay provisions. Standard FLSA rules applied to participants in the other programs.

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The JOBS program established participation standards for states for the first time: 7% of AFDC recipients had to participate by 1990, rising to 20% by 1995. JOBS encouraged activities such as education and training. In addition, the states had to offer at least two of the following: group and individual job search, on-the-job training, work supplementation, and CWEP or Alternative Work Experience.

Under the "on-the-job training" component, participants were hired by private or public employers and provided training in skills essential to the full and adequate performance of the job. These participants received wages and benefits commensurate with those for similarly situated employees as trainees, and in no event less than the amount required by the FLSA or State minimum wage law.

CWEP and Alternative Work Experience both involve the assignment of welfare recipients to work for no additional wages at public or private nonprofit agencies. In the case of CWEP, a participant's hours of work have been limited to the family's monthly AFDC grant divided by the federal minimum wage (or the state minimum wage, if higher) for a period up to nine months. Unlike CWEP, participants in Alternative Work Experience have not been limited in the number of hours they can work; instead, the work schedule has been worked out by the participant and the sponsoring public or private nonprofit entity.

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*Attached are 2 pieces on the
FISA*

June 3, 1997

WHY ONLY TANF AND FOOD STAMP BENEFITS SHOULD BE INCLUDED IN CALCULATING WAGES FOR THE PURPOSES OF FLSA

The Administration recently established that the Fair Labor Standards Act (FLSA) minimum wage provisions apply to participants in work activities under state Temporary Assistance for Needy Families (TANF) block grant programs. These provisions are designed to ensure that individuals who must perform work in order to receive cash assistance receive the same protections available to those who work for wages in more traditional settings. The FLSA requires TANF recipients participating in certain work activities to be paid the minimum wage, so that participants' hours of work cannot exceed their benefits divided by the minimum wage.

The Administration's guidance specifies that both the amount of TANF cash assistance and the value of Food Stamps (coupons or their cash value) can be included when calculating the wage and hourly work requirements. TANF and Food Stamp law ~~specifically permit states to perform work in return for compensation in the form of~~ cash assistance or Food Stamps. Other noncash benefits provided by the state -- such as child care, transportation, housing assistance, or health insurance -- generally cannot be credited toward meeting FLSA minimum wage requirements.

States have raised concerns that FLSA coverage will restrict state flexibility in designing work activities and impede their ability in meeting the TANF participation requirements. In response, some have proposed counting all benefits that a TANF family receives -- including child care, transportation, housing, and Medicaid -- toward the minimum wage requirements. In effect, this proposal could require welfare recipients to "work off" any type of public assistance they receive. As outlined below, counting any benefits beyond TANF and Food Stamps is very problematic for a number of reasons.

- Counting all benefits toward the minimum wage provision would create great inequities among low-income workers and basically gut the protections provided by FLSA. If all benefits a recipient receives count as wages, workers sitting right next to each other doing exactly the same tasks will not receive the same amount of compensation. For example, "regular workers" will receive the minimum wage in addition to any employer-provided health benefits, while welfare recipients would be working off their health insurance as part of the wage. To provide a transition for welfare recipients into the labor market and reinforce the value of work, welfare recipients should be given jobs that resemble regular jobs in their expectations and rewards.

- This provision would have the effect of making welfare recipients much cheaper than other employees. Thus, employers will have incentives to displace their "regular" workers with less expensive welfare recipients, degrading the lower end of the labor market in the process. The intent of welfare reform is not to provide free labor for businesses.
- It is inappropriate to count Medicaid as part of the wage for a number of reasons:
 - Medicaid is a health insurance program, not a cash assistance program. Medical benefits do not contribute to the financial resources of the household and cannot be used to meet basic family expenses such as food, clothing, and shelter. In addition, the cost of Medicaid, like the cost of other health services, has been increasing for reasons beyond the control of the program or its recipients.
 - Like the self-administered employer group health plans that are common among large firms, Medicaid either makes premium payments to managed care plans or fee-for-service payments to hospitals and physicians on behalf of eligible individuals. Just as the employer's contribution on an employee's behalf for health insurance is not counted as income to an employee for tax purposes, so the state and federal contribution through Medicaid to an eligible family's health coverage should not be treated as wages for FLSA purposes.
 - Similarly, other public health care coverage programs are not treated as wages or other income to their beneficiaries. For example, Medicare coverage is not treated as wages or other income for disabled or elderly Medicare beneficiaries, and VA health care coverage is not treated as wages or other income for veterans.
 - Counting Medicaid as wages could also discourage some families from applying for Medicaid, thereby undermining efforts to reduce the number of uninsured children.
- Determining the monetary value of some government benefits is very difficult and would create new administrative burdens for state and local programs.
 - Assigning a dollar value on housing subsidies is particularly difficult, and any approach taken may be somewhat arbitrary. No rental values are set

for public housing units and much of the federal subsidy paid to public housing authorities is for general operating expenses. These costs cannot be readily assigned to individual housing units. Moreover, some public housing projects have high upkeep costs because of poor construction or deferred maintenance. Government costs may bear little relation to the value of public housing units. Adding to these difficulties, public housing projects are often in crime- and drug-infested neighborhoods, where private counterparts which could be used to determine housing values do not exist.

- The actual value of Medicaid to individual families may vary substantially depending on the level of service they utilize, although Medicaid managed care has made it easier for states to determine the average monthly premium paid for coverage.
- For equity reasons, it is not appropriate to count child care toward the minimum wage requirements. Poor working families often receive federal or state child care subsidies. It would be unfair to count the value of child care subsidies as wages for welfare recipients, while other workers receive the minimum wage in addition to their child care subsidy.
- Counting benefits such as child care and Medicaid as wages for the purpose of the FLSA could set dangerous precedents for the eligibility for other government programs. Eligibility for many important means-tested programs is based on recipient's income – including earnings, cash assistance, and child support. Other sources of support such as child care, transportation, or housing subsidies and health insurance are not counted as income. Opening up the door on FLSA regarding what counts as income for poor families could have negative implications for other public programs and their recipients.

June 3, 1997

A PROPOSAL TO INCREASE STATES' ABILITY TO MEET THE REQUIREMENTS OF THE FAIR LABOR STANDARDS ACT

The application of the Fair Labor Standards Act (FLSA) minimum wage provisions to participants in work activities under state Temporary Assistance for Needy Families (TANF) block grant programs will help to ensure that individuals who must work for their benefits receive the same protections available to those who work for wages in more traditional settings. The FLSA requires TANF recipients who function as employees to be paid the minimum wage, so that participants' hours of work cannot exceed their benefits divided by the minimum wage. Concerns have been raised that FLSA coverage will unduly restrict state flexibility in designing work activities and impede states' ability to meet the TANF participation requirements. To alleviate these concerns raised by states and others, as outlined below, policies could be enacted in conjunction with the FLSA that would maintain protections for low-wage workers, including TANF recipients, while giving states more flexibility to meet the work requirements.

- (1) **Include the value of Food Stamps and net cash benefits when calculating wage and work requirements.** The Administration's guidance on the FLSA clearly specifies that, in addition the amount of cash assistance received by recipients, the value of Food Stamps (coupons or their cash value) can be included when determining the minimum wage requirements. Food Stamp law specifically permits certain welfare recipients to perform work in return for Food Stamps and allows employers to receive the value of the Food Stamp allotment as a wage subsidy. The inclusion of the value of Food Stamps gives states substantially more flexibility in meeting the TANF work requirements.

The Administration's guidance on the FLSA specifies that states wishing to include the value of Food Stamps in determining minimum wage requirements may use the Simplified Food Stamp program. In order to ensure that Food Stamps count toward the minimum wage for all recipients, it is necessary to use the simplified program (which conforms TANF and Food Stamps rules) because Food Stamp law exempts TANF households with children under the age six from Food Stamp work requirements. To take advantage of this option, states are required to send a letter indicating their wish to implement this aspect of the simplified program, although within each state a series administrative or legislative actions may be necessary to reach a decision on this use of the simplified program. If Congress wished to strengthen and simplify this provision for states, it could legislate that states be given the option to include Food Stamps in determining minimum wage requirements. With legislative action, states would not be required to go through the Simplified Food Stamp program to claim this option.

- (2) **For states who cannot meet the hourly work requirements when FLSA is taken into account, allow the remaining hours of the work requirement to be met by counting job search, job readiness activities, basic skills education, vocational education training, job skills training, high school, or GED completion.** The activities listed above are not subject to FLSA minimum wage requirements, which only apply to situations where the recipient is considered an "employee". In order to allow more flexibility in meeting the work requirements, Congress could legislate that in situations where the welfare benefits package divided by the minimum wage did not fulfill the hourly work requirements states could satisfy the remaining hours with activities that were not subject to FLSA requirements. The proposed list of activities does not go beyond the countable work activities contained in the welfare law.
- (3) **Allow FLSA-related reasons to count as reasonable cause for not meeting the TANF work requirement.** The welfare law directs HHS to impose financial penalties on states that fail to meet the participation rates. Section 409(b) of the law specifies that HHS not impose a penalty on a state if it determines that the state has "reasonable cause" for failing to meet the requirement. Another way to increase states' ability to meet FLSA requirements is to specify that when determining the work penalty, HHS will include FLSA requirements as a factor that will be considered in determining whether states had reasonable cause in not meeting the hourly work requirements. States would still be required to meet the TANF participation rates, but some individuals may work less than the required number of hours due to FLSA requirements. For example, because some families may receive lower TANF grants due to small family size or child support payments from the non-custodial father, there may be circumstances where an individual must work less than 20 hours per week to be paid the minimum wage (even if Food Stamps is included in the calculation). In these situations, states would not be penalized for failing to meet the work requirements because of reasonable cause. count
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This option could be pursued legislatively or administratively. Congress could enact a requirement specifying that FLSA requirements would be considered as a factor in determining whether a state had reasonable cause for not meeting the hourly work requirements. Although reasonable cause could be granted on the hourly requirements, states would still be expected to achieve the actual participation rates. Alternatively, this issue could be included as part of the regulatory package being developed by HHS. As part of its TANF regulations, HHS could specify that among the factors leading to a reasonable cause for failing to meet the work requirements would be circumstances where the hours of work were not attainable given the state's benefit levels and FLSA requirements.

To: Diang 458-5570
FR: Stacey 7431

DRAFT: June 3, 1997, 9:00pm

**Labor Protections and Welfare Reform
Ways and Means Subcommittee on Human Resources
Majority Proposal**

The House Ways & Means Committee's Subcommittee on Human Resources will mark up its portion of the reconciliation bill this Friday, June 6. Subcommittee Chairman Clay Shaw (R-FL) will include in his chairman's mark a provision that would: (1) declare that welfare recipients engaged in "workfare" "are not employees for purposes of the Fair Labor Standards Act or any other federal law"; (2) require that they receive the minimum wage, although permit states to include the TANF grant, Food Stamp benefits and, most importantly, noncash benefits including child care, housing and Medicaid in their calculation of the minimum wage; and (3) if welfare recipients cannot satisfy their work requirements because the minimum wage applies, permit the states to count hours engaged in job search, job readiness activities, basic skills education, vocational education training, job skills training, high school or GED completion to satisfy a welfare recipient's 20-hour work requirement.

The Administration strongly opposes this proposal.

- The welfare reform law achieves the appropriate and fair result that welfare recipients who work should receive the minimum wage and be covered by other important worker protection laws -- in the same manner as other workers in this country.
- Paying welfare recipients the minimum wage promotes the goals of welfare reform, by giving people greater ability to support their families and break the cycle of dependency. Welfare recipients entering the workforce should have the same rights and responsibilities as any other worker -- to do otherwise would be to undermine the work-based goals of welfare reform.

The proposal is beyond the scope of the budget agreement. This proposal was not included in the budget agreement between the White House and Congress.

The proposal denies welfare recipients who work the fundamental protection of laws created by Congress to protect workers. It specifies that welfare recipients working in public and nonprofit sectors are not employees for purposes of the FLSA and other federal laws.

- Under this proposal working welfare recipients will be deprived of the protection of laws addressing, among other things:

- race, gender, and national origin discrimination in employment
 - employment discrimination on the basis of disability;
 - unsafe and unhealthy workplaces; and
 - the minimum wage and child labor.
- Congress would give states approval to segregate welfare recipients creating a supply of second class workers who could be subjected to unfair wages, unsafe workplaces, and discriminatory treatment.
 - Inequitable treatment undermines the basic goal and principle of welfare reform -- moving individuals from welfare to real jobs that will allow them to break their cycle of dependence and support their families. Failure to protect working welfare recipients from substandard working conditions, discrimination, and subminimum wages places obstacles in the path to self-sufficiency.

THIS PROPOSAL UNDERMINES THE MINIMUM WAGE

Counting noncash benefits undermines the minimum wage: The proposal allows States to count Medicaid, child care and housing benefits towards the minimum wage -- in effect creating a subminimum wage for welfare recipients.

- Working is harder than not working. Welfare recipients who work in any kind of job --- including "workfare" arrangements --- need more help than other welfare recipients. They need their TANF grant and their Food Stamps to feed and clothe themselves and their children. But they also need shelter and child care so they can work without worrying about whether their children are safe and sound. They need Medicaid so they can keep themselves and their families healthy and productive.
- Child care, Medicaid, and housing provide essential "bridging assistance" for welfare recipients trying to get and keep jobs. We want to create incentives for welfare recipients to seek out and accept these benefits so that they can make the transition into work, for good.
- Counting child care, Medicaid, and housing assistance as "wages" paid to welfare recipients makes it "cheaper" to hire welfare recipients than other low-wage workers. As a result, it is much more likely that low-wage workers will be displaced by working welfare recipients.
- States will face a strong incentive to reduce the values of their TANF benefits since they can substitute dollar-for-dollar with Medicaid, housing, and child care assistance for welfare recipients who work.

Forcing States to count noncash benefits is a huge administrative burden. Under this proposal states will be required to quantify and track the value of Medicaid, child care, and housing assistance (in addition to the cash welfare grant and food stamps) provided to each working welfare recipient for the duration of the period that the benefits are received. Determining the monetary value of these benefits is very difficult.

- The value of child care, Medicaid, and housing is not easily measured and is not constant. Child care varies by age of child and circumstances. Medicaid value depends on the level of services utilized [-- though managed care has made it easier for states to determine monthly premiums]. The value of public housing also may vary considerably depending on its location and condition.
- Child care assistance doesn't always go to the parent; it can go to the provider.

Proposal does not include a mechanism for enforcing the minimum wage. Under TANF, there is no enforcement authority of any kind. Consequently, there is no way to assure that working welfare recipients receive the minimum wage. Eliminating coverage by the FLSA by declaring that welfare participants are not employees eliminates the existing mechanism for enforcing payment of the minimum wage. While a similar provision was used under the previous welfare law to ensure that working welfare recipients were paid the equivalent of the minimum wage, changes in the welfare law increase the likelihood of enforcement problems.

- States' no longer have the ability to adjust working hours in order to meet the minimum wage. In addition the number of welfare recipients that must be placed in work activities under the new law is dramatically larger.

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THE WHITE HOUSE**OFFICE OF LEGISLATIVE AFFAIRS
HOUSE LIAISON****FAX COVER SHEET**

DATE:

3 June

TO:

Kenneth Apfel

FAX:

5-5730

FROM:

☒ JANET MURGUIA
☐ AL MALDON
☐ DAN TATE
☐ LUCIA WYMAN
☐ PETER JACOBY

☐ ANDY BLOCKER
☐ JEFF FORBES
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456-6620 (TELEPHONE)

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SUBJECT:

Labor Talking Points
RE Ways & Means

219.9216

Boudette - ga

Paul - to change
Elena

DRAFT: June 3, 1997, 11:00

Olivia -
401-2337
265-3204

**Labor Protections and Welfare Reform
Ways and Means Subcommittee on Human Resources
Majority Proposal**

WORK
RHETORIC

The House Ways & Means Committee's Subcommittee on Human Resources will mark up its portion of the reconciliation bill this Friday, June 6. Subcommittee Chairman Clay Shaw (R-FL) will include in his chairman's mark a provision that would: (1) declare that welfare recipients engaged in "workfare" "are not employees for purposes of the Fair Labor Standards Act or any other federal law"; (2) require that they receive the minimum wage, although permit states to include the TANF grant, Food Stamp benefits and, most importantly, noncash benefits including child care, housing and Medicaid in their calculation of the minimum wage; and (3) if welfare recipients cannot satisfy their work requirements because the minimum wage applies even including all the benefits listed in #2, permit the states to count hours engaged in job search, job readiness activities, basic skills education, vocational education training, job skills training, high school or GED completion to satisfy a welfare recipient's 20-hour work requirement.

The Administration strongly opposes this proposal.

The proposal is beyond the scope of the budget agreement: This proposal was not included in the budget agreement between the White House and Congress. Inclusion in reconciliation would violate the terms of the agreement.

(1) Start w/ counting $\Rightarrow$ no min wage
The proposal denies welfare recipients who work the fundamental protection of laws created by Congress to protect workers. The proposal specifies that welfare recipients working in public and nonprofit sectors are not employees for purposes of the FLSA and other federal laws.

- Under this proposal working welfare recipients will be deprived of the protection of laws addressing, among other things:

- race, gender, and national origin discrimination;
- discrimination on the basis of disability;
- unsafe and unhealthy workplaces;
- the minimum wage and child labor;
- overtime; and
- family and medical leave.

overstated - Olivia
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still federal law - TANF protections
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not employees
only other Fed law

Congress would give states approval to segregate welfare recipients creating a supply of second class workers who could be subjected to unfair wages, unsafe workplaces, and discriminatory treatment.

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- Inequitable treatment undermines the basic goal and principle of welfare reform -- moving individuals from welfare to real jobs that will allow them to break their cycle of dependence and support their families. Failure to protect working welfare recipients from substandard working conditions, discrimination, and subminimum wages places obstacles in the path to self-sufficiency.

over states

Proposal does not include a mechanism for enforcing the minimum wage. While a similar provision was used under the previous welfare law to ensure that working welfare recipients were paid the equivalent of the minimum wage, changes in the welfare law increase the likelihood of enforcement problems.

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- Under the previous law, states could adjust a welfare recipient's work requirement to ensure that their welfare benefits paid the minimum wage for the number of hours worked. Under the current law, federal participation rates and work requirements reduce states' ability to make a similar adjustment in order to meet the minimum wage.
- The tremendous increase in the number of welfare recipients that must be placed in work activities under the new law also increases pressure that could lead to compliance difficulties.

Counting noncash benefits undermines the minimum wage: The proposal allows States to count Medicaid, child care and housing benefits towards the minimum wage.

- Noncash benefits are not substitutes for the minimum wage. They can not be used to cover living expenses. Instead they are provided to enable welfare recipients and low wage workers retain jobs that will lead to self sufficiency. Making welfare recipients choose between targeted benefits that enable them to continue to work and cash benefits to cover basic necessities is incompatible with the fundamental goals of welfare reform.

Including the value of noncash benefits towards payment of the minimum wage for welfare recipients lowers the cost of hiring welfare recipients relative to the cost of other low wage workers -- exacerbating the potential for displacement.

- States will face a strong incentive to reduce the value of their TANF benefits and their Food Stamp benefits since they can substitute dollar-for-dollar with Medicaid, housing, and child care for welfare recipients who work.

drop or weaken - 66

→ Final:

Forcing States to count noncash benefits is a huge administrative burden. Under this proposal states will be required to quantify and track the value of Medicaid, child care, and housing assistance (in addition to the cash welfare grant and food stamps) provided to each working welfare recipient for the duration of the period that the benefits are received.

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HHS sec