

THE EMPOWER ACT OF 2016

*Senator Angus King (I-Maine), Senator Kelly Ayotte (R-New Hampshire),
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Section-by-Section Summary

Sections 1 – 2: Short Title, Table of Contents; References

Section 3: Extension of Program

The most recent TANF reauthorization expired in 2010; the program has since been operating on short-term extensions, with the current authorization expiring on September 30, 2016. This section would reauthorize the program from FY2017 through FY2021.

Section 4: Amending the Purposes of the TANF Program

Current law defines the purposes of the program as: providing assistance to families so that children can be cared for in their homes; ending dependence on government programs by promoting job preparation, work and marriage; preventing and reducing the incidence of out-of-wedlock pregnancies; and encouraging the formation and maintenance of two-parent families. This section adds two additional purposes to the program: reducing child poverty, including the incidence of children living in deep poverty; and encouraging employment entry, retention, and advancement.

Section 5: Eliminating the Marriage Penalty

Under current law, states are required to demonstrate that at least 50 percent of their overall TANF caseload and 90 percent of their two-parent households are engaged in work activities. This section would eliminate this disparate treatment of two-parent households and hold both one- and two-parent households to the same 50 percent work participation rate. This section also requires states to provide equitable program access to two-parent families.

Section 6: Individualized Employment Plans

This section requires states to establish an Individualized Employment Plan with participants, designed to move individuals into employment or into the education and job training needed for employment. The plan will set forth the goals and benchmarks for the individual to move into employment, identify and address any significant employment barriers the individual faces, and specify a timeline over which the individual must meet the employment goals and benchmarks. The participant's plan will be reviewed not less than once every six months.

Section 7: Strengthening Work Participation Requirements

Current law allows a state to reduce the work participation rate it must meet through the "caseload reduction credit," which lowers a state's target work rate based on the state's caseload decline. In addition, some states have also increased their apparent work participation rate by providing nominal "worker supplement" TANF payments to working families not otherwise receiving TANF cash assistance.

This section limits the use of the caseload reduction credit, allowing it to count for not more than half of the work rate the state achieves. This section also directs the Secretary of Health and Human Services (HHS) to issue regulations to ensure that a state's work participation rate has been calculated

without regard to nominal worker supplement payments that are distributed solely to improve a state's work rate.

States that fail to meet the work participation rate currently face financial penalties from the federal government. This section eliminates the existing penalty structure, rescinds any pre-2017 financial penalties, and replaces the penalty with a requirement that a failing state increase its state MOE spending.

Section 8: Streamlining Work Participation Activities

The existing definitions and requirements around work activities in the TANF statute are convoluted and create administrative complexity. Current law makes a distinction between "core activities," which must be the principal activities of TANF recipients, and "non-core activities." Participants must ensure that at least 20 work hours per week are in "core" activities. Not more than 30 percent of the individuals a state counts as engaged in work can be participating in education to meet work requirements, and education can only count as a stand-alone activity for up to 12 months. Additional restrictions exist for the number of weeks job search/job readiness activities can count in a given year and the age of participants for whom completing secondary school can count as a primary activity.

This section eliminates the distinction between core and non-core activities; redefines vocational education to include post-secondary, vocational, or career and technical education; allows participation in such education to count for up to 36 months with respect to any individual; eliminates the restriction on the percentage of those counted as engaged in work who are allowed to participate in education as work activity; eliminates the age cap on secondary school attendance as the primary work activity; and creates a new, separate job readiness category, which includes mental health and substance abuse treatment.

Current law also treats work activity as an all-or-nothing endeavor; states receive no credit for participants who fall short of the full work-hour requirement. This section allows states to receive partial credit for recipients partially meeting work-hour requirements and allows states to deem individuals with work-limiting disabilities as engaged fully in work if complying with the work requirements laid out in their Individualized Employment Plan.

Section 9: Improving the Accountability of TANF Financial Resources

Current law allows state and federal TANF dollars to be spent broadly under the four existing TANF goals. Nationally, states spend only 50 percent of TANF-MOE funds on core welfare reform areas, like cash assistance, work activities, and childcare. Basic assistance accounted for only 26 percent of TANF-MOE spending in 2014, and work-related activities, only 8 percent. In addition, some states meet their MOE obligations in part through counting third-party expenditures, like donations and volunteer hours, and have thus reduced state investments.

This section prohibits TANF funds from being used on families with income greater than 200 percent of the federal poverty level and requires states to phase in increased spending on core welfare reform activities (cash assistance, work activities, childcare, and transportation). Under this section, states will need to devote at least 60 percent of TANF funds to these core activities by 2021. This section also phases out the use of third-party MOE to meet the state's spending obligation.

Section 10: Strengthening the Transparency of the TANF Program's Effectiveness and Outcomes

Nothing in current law measures states' effectiveness in connecting families that have left TANF to employment or in helping them leave poverty. This section requires states, in consultation with HHS, to develop a set of indicators and performance targets for outcomes of former TANF beneficiaries and state-level poverty data. These indicators will include employment and earnings of TANF beneficiaries who leave the program; the state's TANF-to-poverty and TANF-to-deep poverty ratios; the rate of children living in deep poverty; and child food insecurity. States will negotiate targets for performance and release their data to the public each year.

Section 11: Exclusion of Education Accounts from Income and Asset Tests

This section excludes any funds in a 529 college savings accounts from counting against TANF eligibility. A similar exclusion for 529 accounts already exists in the Supplemental Nutrition Assistance Program.

Section 12: Exclusion of Child SSI Payments from Income and Asset Tests

This section excludes payments on behalf of children receiving Supplemental Security Income from counting against TANF eligibility.

Section 13: Effective Date

The provisions in this Act would take effect on October 1, 2016. A state may elect to accelerate the effective date of this Act for the purposes of the provisions in section 8.