Total Pages: 4

LRM ID: MDH171

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, April 23, 1998

URGENT

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: **HHS Conference Document on HR3130 Child Support Performance and Incentive Act of 1998**

DEADLINE: **3 PM Friday, April 24, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: We expect the conference on H.R. 3130 to begin the week of April 27th.

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Kate P. Donovan
Lisa M. Kountoupes
Janet R. Forsgren

LRM ID: MDH171 **SUBJECT:** HHS Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Dear Conferee:

I am writing to convey the Department's views on H.R. 3130, the "Child Support Enforcement and Incentive Act of 1998". The bill provides for a performance-based incentive funding system for the child support enforcement program and an alternative penalty structure for the enforcement of requirements for state automated systems. We are pleased that Congress has acted expeditiously on this important legislation.

The House and Senate versions of H.R. 3130 include identical provisions for performance-based child support enforcement program incentives. We strongly support these provisions and appreciate the efforts of the Congress to closely track the proposal we submitted last year.

With regard to the penalties for state failure to complete essential automated child support enforcement systems, we support the automatic and escalating penalties included in both bills. While we support the penalty structure included in the House bill, we do, however, have serious concerns with the one-year extension of the systems deadline and the penalty earnback provisions in the Senate bill. We believe it is important that the new penalties give the states a strong incentive to complete their child support systems quickly. The penalty structure in the House bill is tough yet fair and will send a clear message to the states about the importance of automation to the child support enforcement program. On the other hand, we are troubled that the relaxation of the penalties in the Senate bill will send states the wrong message.

With respect to the miscellaneous provisions, the House bill includes a provision that would make aliens ineligible to receive visas and exclude them from admission to the United States for failure to pay child support. Although we support the goal of this amendment, we urge the conferees to consider language which would better target the population the provision seeks to reach. We would be happy to offer assistance to that end.

We strongly support the provisions in the Senate bill concerning the successful establishment and enforcement of medical support. In particular, we support the language providing for use of a National Standardized Medical Support Notice, because it will eliminate most remaining impediments to ensuring that children are covered by health insurance available to their parents.

We also support the Senate bill's penalty for unauthorized access to, or disclosure or use of, information in the National Directory of New Hires (NDNH), as well as the bill's restrictions on the use

of data. However, we have serious concerns about the limit on retention of data in the NDNH included in the Senate bill. All NDNH data must be retained for at least two years to achieve the underlying legislative intent of the system. First and foremost, data must be retained for two years to determine employer compliance with new hire reporting requirements. Failure to do so could jeopardize the usefulness of the NDNH in improving the enforcement of child support.

Furthermore, we strongly believe that a two-year retention limit should include an exception permitting the Secretary to retain a limited sample of information in the New Hire Data Base for longer than 24 months. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which enacted the NDNH requirement, authorized the Secretary to use these data to determine whether the purposes of titles IV-A and IV-D are being achieved. Without the ability to examine over time the wages of current and former TANF recipients and other parents, it will not be possible to determine the long term effects of welfare reform. We would be happy to work with the Committee to develop language that gives the Secretary this limited authority.

Together we have made great strides to craft legislation to resolve issues of automation of State child support systems and aligning incentives to performance. We urge consideration of the comments above to ensure enactment of the strongest bill possible.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report, and that enactment of H.R. 3130, with the amendments recommended above, would be [consistent with the program of the President].

Sincerely,

Donna E. Shalala

Weekly Report
Diana Fortuna
April 23, 1998

Elena -- Please note: This item is very probably not ready for him to review, because we haven't gotten our White House position together yet, but we thought we should let you see it and make the call.

L.A. County Child Support Enforcement System Penalty -- Both the House and Senate are moving forward on bills to ensure that states face tough but reasonable penalties if they fail to establish child support enforcement computer systems on time. We will probably favor the tougher House bill. California faces penalties because it has traditionally relied on county-based systems and its state-wide system has failed to function. The Senate bill was specifically crafted to satisfy members from California, but L.A. County remains very unhappy with it and is pushing both Congress and the Administration to give L.A. County a special exemption from any penalty.

Officials from the D.A.'s office argue that L.A. County has an excellent county system that has long functioned well and was designed with federal involvement under a waiver several years ago. DPC, HHS, and OMB believe that offering any such exemption would set a bad precedent for numerous other counties, and that the federal government must hold states accountable for their actions (states are not required to pass along penalties to counties). So far Hill leaders have not supported L.A. County's exemption, and California members like Matsui and Stark oppose such an exemption.

One-Year Anniversary of Philadelphia Service Summit -- On Monday, April 27, General Colin Powell will present a report on what his group America's Promise has accomplished in the year since the service summit. He is expected to focus on corporations that have made new commitments or followed through on prior ones, and on communities that have continued the summit's work. His report will also include an update on federal agency commitments. He will present his report in Chicago to a special meeting of the U.S. Conference of Mayors.

Total Pages: ____

LRM ID: MDH162

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

SPECIAL

Tuesday, April 7, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT: **OMB Request for Views on the House- and Senate-Passed Versions of HR3130 Child Support Performance and Incentive Act of 1998**

DEADLINE: **4 pm Monday, April 13, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Please provide your agency's views on the House- and Senate-passed versions of H.R. 3130 by 4 p.m., Monday, April 16th. The House passed H.R. 3130 on March 5th. The Senate passed an amended version of the bill on April 2nd.

THIS IS A FIRM DEADLINE.

DISTRIBUTION LIST

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Mark D. Menchik
Thomas P. Stack
Norwood J. Jackson Jr
Scott Busby

LRM ID: MDH162 **SUBJECT:** OMB Request for Views on the House- and Senate-Passed Versions of HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Total Pages: 4

LRM ID: MDH170

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 17, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO:	Legislative Liaison Officer - See Distribution below
FROM:	Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT:	Melinda D. Haskins PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT:	**LABOR Conference Document on HR3130 Child Support Performance and Incentive Act of 1998**
DEADLINE:	**11 am Tuesday, April 21, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: We expect the conference on H.R. 3130 to begin the week of April 20th.

THIS IS A FIRM DEADLINE. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST

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Scott Busby
James C. Murr
OMB-LA

LRM ID: MDH170 **SUBJECT:** LABOR Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ _____ (Date)

_____ (Name)

_____ _____ (Agency)

_____ _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of ___ pages, attached to this response sheet

Dear :

I am writing to provide you with the views of the Department of Labor on H.R. 3130, the Child Support Performance and Incentive Act of 1998. The Department strongly supports the goals of this legislation. As you know, one of my primary goals as Secretary of Labor is to help people make the transition from welfare to work. To succeed, we must work closely with the States, as well as businesses, unions, churches and community organizations, to help welfare recipients find and keep real jobs with wages that reward work. One way to help parents find and keep jobs is to assure that their children have health care coverage by being enrolled in group health plans sponsored by employers of non-custodial parents.

I also want to alert you to provisions found in section 401 of the Senate-passed bill which would amend section 609 of the Employee Retirement Income Security Act (ERISA). (The ERISA provisions were originally added as conforming changes to child support initiatives under the Social Security Act in 1993.) ERISA section 609 currently allows for "qualified medical child support orders," which operate to enroll children in employer-sponsored group health plans that cover their non-custodial parents.

Under ERISA, a plan administrator does not have to implement a medical support order unless it is "qualified," i.e., it satisfies certain conditions including clearly specifying the type of coverage to be provided. Only orders "qualified" under ERISA operate to enroll the child in the plan. In that event, any premiums required by the plan for dependents' coverage may be withheld from the wages of the non-custodial parent.

We have been advised by various State child support agencies, however, that current law does not fully effectuate Congress' intent in this area. We have also been advised that plan administrators frequently reject medical child support orders for technical reasons relating to the qualification requirements of current law.

The Senate-passed version of H.R. 3130 is intended to eliminate these and other impediments to the effective administration and enforcement of medical child support orders. It is the view of the Department, however, that the language in section 401 of the Senate-passed bill may not fully accomplish this objective. For example, while the bill would require the creation of a National Standardized Medical Support Notice, it would not prevent plan administrators from continuing to raise technical reasons for rejecting medical child support orders. We also are concerned about the time frames established by the Senate bill for the

development of regulatory guidance and legislative recommendations in consultation with the working group and other interested parties.

We would support minor technical improvements, which are consistent with Congressional intent, to make ERISA's medical child support order provisions administratively feasible for both state child support agencies and plan administrators. The Office of Management and Budget has advised us that ...

Sincerely,

Alexis Herman
Secretary of Labor

Total Pages: 5

LRM ID: MDH165

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

URGENT

Monday, April 13, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: **Social Security Administration Conference Document on HR3130 Child Support Performance and Incentive Act of 1998**

DEADLINE: **4 PM Tuesday, April 14, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: We expect the conference on H.R. 3130 to begin the week of April 20th.

THIS IS A FIRM DEADLINE. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST

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OMB-LA

LRM ID: MDH165 **SUBJECT:** Social Security Administration Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

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(2) sending us a memo or letter
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TO: Molinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

____ FAX RETURN of ____ pages, attached to this response sheet

The Honorable Bill Archer
Chairman
House Committee on Ways and Means
United States House of Representatives
Washington DC 20515

Dear Mr. Chairman:

I am writing to you to present the views of the Social Security Administration concerning H.R. 3130, the Child Support Performance and Incentive Act of 1998. In large part, neither the House-passed nor the Senate-passed version of the bill will directly affect the Social Security Administration. However, there is one provision contained in the Senate-passed bill to which the Social Security Administration strongly objects.

Section 402(b) of the Senate-passed version of H.R. 3130 provides that information contained in the National Directory of New Hires would in most cases be deleted from the database after 12 months. Data could be retained for 24 months, but only with respect to individuals whose names match certain "information comparisons" relating to attempts to locate parents or enforce child support orders.

The National Directory of New Hires was established by section 453(i) of the Social Security Act which was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. The National Directory of New Hires contains not only a listing of newly hired individuals, but also quarterly wage reports and reports of unemployment compensation payments. Section 453(j)(4) of the Social Security Act provides that the information in the National Directory of New Hires shall be provided to the Social Security Administration.

The National Directory of New Hires, as PRWORA recognized, provides invaluable data not only for the enforcement of child support but also for the administration of the Supplemental Security Income Program (SSI) and the Disability Insurance Program (DI). In order for the Social Security Administration to use that data, it must be retained in all cases for at least 24 months. A retention period of less than 24 months for any report will significantly erode the value of the directory as a means of strengthening the administration of the SSI and DI programs.

The Social Security Administration intends to begin using this data later this year to help it ensure payment accuracy and eligibility for SSI and DI. The use of this data is part of our effort to respond the General Accounting Office's designation of the SSI program as a "high risk" program and has been recommended by the General Accounting Office. Because of the operational needs of those programs, 24 months is the minimum period for the data to be retained. The data will be invaluable in determining whether a beneficiary has unreported income, whether a continuing disability review should be conducted because the individual is working, and whether an individual is within his or her trial work period or extended period of eligibility for DI.

Thank you for the consideration of our views. I am sending a similar letter to Senator Roth.

I am advised by the Office of Management and Budget that there is no objection to these views from the standpoint of the President's program.

Sincerely,

Kenneth S. Apfel
Commissioner
of Social Security

Weekly Report
Diana Fortuna
April 30, 1998

Elena: LA County officials are in town next week, so this would be a good week to get this in. I have already heard a rumor they are trying to get a meeting with Erskine, though nothing is on his calendar yet. They'll probably also push for a VP meeting.

Progress on Child Support Incentives Legislation -- Both the House and Senate are moving forward on good legislation to reward states for high performance on child support collections, and to ensure that states face tough but reasonable penalties if they fail to establish child support enforcement computer systems on time. The penalty in current law is so extreme (withholding all TANF and child support funds) that it has never been enforced, while the proposed penalties are smaller -- e.g., 4% the first year, 8% the second year -- but automatic. We favor the tougher House bill. The Senate bill would allow states an extra year to comply without penalty, and let them "earn back" prior penalties once they come into compliance. About 15 states are likely to face some penalty.

The Senate bill was specifically crafted to satisfy members from California. That state faces far greater penalties than any other state because it is years away from having a functioning state-wide system and has continued to rely on county-based systems. However, L.A. County remains very unhappy with even the Senate position, and is pushing both Congress and the Administration to give it a special exemption from any penalty. L.A. County District Attorney Gil Garcetti argues that L.A. County has an excellent county system that has long functioned well and was designed with federal involvement under a waiver several years ago. DPC, HHS, and OMB hold that such an exemption would allow numerous other counties to make the same argument, and that the federal government must hold states accountable for their actions in this critical area. (States are not required to pass along penalties to counties.) Hill leaders do not generally support an L.A. County exemption, and California members like Matsui and Stark oppose it. Sen. Feinstein supports the exemption.

In addition, we are working with Congress on how to create a standard form for medical support orders, in order to make it easier for children to be covered by a non-custodial parent's health insurance. Finally, the House bill would exclude aliens who fail to pay child support from admission to the U.S. and make them ineligible for visas. We generally support this provision, but are working to ensure that it is better targeted so that it does not create a huge administrative burden for the INS.

Welfare Reform -- Welfare-to-Work Transportation Event: On May 7th, DOT, DOL, and HHS will participate in an event in Room 450 to highlight your Access to Jobs initiative. While it appears likely that this will emerge from the ISTEA conference committee authorized at $150 million (compared to the $100 million you proposed), we need to build support for appropriations. Secretaries Slater and Herman will participate, along with HHS Assistant Secretary Olivia Golden. We also hope to have at least one Governor, several key Congressional supporters, and several new workers participating.

Diana Fortuna 04/23/98 03:28:36 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP, Julie A. Fernandes/OPD/EOP
Subject: Position on House vs. Senate child support incentives bill

We are readying our position on the child support incentives bill. It's going pretty much as we would wish. Both bills have the same incentives, which we support. The chief difference is in the penalty structure. The penalty percentages are similar, but the Senate is much more generous because it allows states an extra year to comply without penalty, and lets them "earn back" prior penalties once they come into compliance. We plan to favor the House bill since it's tougher.

3 other issues: 1. The House bill includes a Cardin amendment to catch immigrants who owe a lot of child support at the border -- We presumably will favor but will propose to target more; INS may have issues. 2. The Senate bill would create standard form to do medical support orders (putting kids on non-custodial parents' health insurance) -- we favor, but DOL may have technical issues. 3. Senate wants to require HHS to discard data from the New Hire Data Base after 1 year if there is no "hit" on child support. HHS argues that they need it for 2 years to make sure employers are complying. Also, they want to keep some data indefinitely to evaluate the success of welfare reform. We're looking into this last point.

Let me know if any of this seems wrong. Also, you should know that the LA County DA is stepping up his push for an exemption for LA County from any Calif. penalty. He is pushing Karen Skelton, and she is asking us why we don't agree to their demand. So far, none of the players on the Hill are sympathetic to them either, but the heat may get turned up further.

2/19

John

3 vehicles

1) pegp → trade statute

2) certification guide

3) Through APD, set milestones, more staff oversight, contracted w/ outside contractor for ~~[illegible]~~ technical asst

Barry

Is there way to put teeth to milestones through reg?

Tie $ to each state's milestones

John

Don't want one size fits all

~~[illegible]~~

(2)

Edwin

(1) Want specific data tied to elements

(2) Want hire of independent verification contractor

(3) If contractor finds

(4) (a) Allocation rule would not go final until other eg

[HHS - States already drawing down 80%]

(b) Explore ways to tie $ to reaching milestones

Norm

Not sure what stat. auth
80 → 66

Cutting off all funds

→ States would love stable ~~[illegible]~~ of federally approved computer contractor

Nom

ADP— 2-3 yrs

Get update at year's end

Release $ for one year period

Barry

Preamble change

→ two will be published in final together

(3)

Child Support Markup - 25th

2/23

Louisiana

State + McCrery seem to accepted HHS proposal
→ state administrative action

Access + Visitation process

$10 mil yr

Drafting problem

→ refers to state expenditures

→ Make clear - all states 10% match

→ goal = capped entitlement 90% match

Betsey

~~[illegible]~~

Incentives = no supplantation - Wendell

Licenses SS# → delay til year 2000
like imm bill

Fed parent locator → take out phrase
to conform to BBA

(2)

Off table

1) Incentives to help people get married
2) Change to 5 measures
3)

Senate

~~S-1293~~

~~DOL + HHS would be required~~

Rockefeller-Snowe incentives bill

Group by 10/98 would 10/1/98
Come up w/ indicators
+ enact through reg
+ Congress could over-ride
5 year phase in
HHS - wants more time 10/1/99

ERISA
Rockefeller Snowe

Didn't have incentive
because of barriers
to agencies getting
access to medical supp
3 of 4 fixed

③

— Standard form for all ERISA employers to use —

w/in

→ would be a mandated form

→ Makes changes to statutes

→ There is DOL-HHS - advocate work group

California

State case registry 10/1/98

States disbursement 10/1/98 - Calif

Distribution

Linked systems ~~report lang~~ "seamless uniform system"

→ advocates want in Legis lang -

→ Ron will probably add

Corbin

Deny entrance to US to people who owe child support

→ HHS suggested they deny visas (like passport person)

→ will add on House floor

Lauren → will work on

Fax to Lauren Griffin
From Diana Fortuna
Urgent
5 page fax

cc Cynthia

Congresswoman Juanita Millender-McDonald 37th C.D., California

419 Cannon House Office Building
Washington, D.C. 20515
(202)225-7924

970 West 190th Street
East Tower, Suite 900
Torrance, CA 90502
(310)538-1190

Sorry we're not supporting

Date: 3/4/98

To: Erskine Bowles

Company Name: The White House

Recipient's Fax No.: 456-1907

From: Congresswoman Millender-McDonald

Company: Office of Congresswoman Juanita Millender-McDonald

Fax: (202) 225-7926

This Transmission includes 5 pages (including this cover sheet).

Comments

JUANITA MILLENDER-McDONALD
37TH DISTRICT, CALIFORNIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES ON
AVIATION
SURFACE TRANSPORTATION

COMMITTEE ON
SMALL BUSINESS

SUBCOMMITTEES ON
EMPOWERMENT
TAXATION AND FINANCE EXPORTS

DEMOCRATIC REGION ONE WHIP

CONGRESSIONAL WOMEN'S CAUCUS
CO-CHAIR WOMEN OWNED BUSINESS
LEGISLATIVE TEAM

Congress of the United States
House of Representatives
Washington, DC 20515-0537

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E-MAIL: Millender.McDonald@mail.house.gov
www.house.gov/millender-mcdonald

March 4, 1998

Erskine Bowles
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Bowles:

Pursuant to our conversation this morning and my work with Senator Dianne Feinstein, I am enclosing my compromise amendment to HR 3130, the Child Support Performance and Incentive Act, which will be considered on the floor tomorrow. The language I have drafted is similar to language within a bill Senator Feinstein is contemplating introducing once HR 3130 is passed by the House.

We are interested in knowing whether this language is acceptable to the Administration. This amendment would include Los Angeles County in the state's first year penalty for failing to set up a fully-automated data processing system for tracking child support payments by the October 1, 1997 deadline. Los Angeles County would then be exempted from this penalty in the following years since it met the original deadline which was imposed by the federal government. We understand that due to California's unique distinction as the most populous state with a caseload of 2.36 million, it has experienced technical difficulties in trying to automate the various jurisdictions to handle such an enormous caseload.

Please review my amendment and inform me of the Administration's position today.

Sincerely,

JUANITA MILLENDER-McDONALD
Member of Congress

AMENDMENT TO H.R. 3130, AS REPORTED

OFFERED BY MS. MILLENDER-MCDONALD OF CALIFORNIA

Page 2, line 11, insert "(a) IN GENERAL.—" before "Section".

Page 4, strike lines 4 through 8 and insert the following:

1 "(ii) The term 'penalty base' means, with re-
2 spect to a failure of a State to comply with section
3 454(24) during a fiscal year—
4 "(I) in the case of the first fiscal year in
5 which the failure occurs, the amount otherwise
6 payable to the State under paragraph (1)(A) of
7 this subsection for the preceding fiscal year;
8 and
9 "(II) in the case of any subsequent fiscal
10 year in which the failure occurs, the amount
11 otherwise payable to the State under paragraph
12 (1)(A) of this subsection for the preceding fiscal
13 year, reduced by the amount (if any) expended
14 by the State during the preceding fiscal year to
15 carry out the State plan under section 454 in
16 any county of the State—

1 "(aa) to which the Secretary granted
2 a waiver under section 452(d)(3) in con-
3 nection with a commitment by the county
4 to meet the requirements of a memoran-
5 dum of understanding, dated March 2,
6 1989, before October 1, 1997; and
7 "(bb) which met that condition.

Page 5, after line 20, insert the following:

8 (b) HOLD HARMLESS REQUIREMENT.—Section 454
9 of such Act (42 U.S.C. 654) is amended—
10 (1) by striking "and" at the end of paragraph
11 (32);
12 (2) by striking the period at the end of para-
13 graph (33) and inserting "; and"; and
14 (3) by inserting after paragraph (33) the fol-
15 lowing:
16 "(34) provide that, if a penalty is imposed on
17 a State under section 455(a)(4) for a fiscal year and
18 the penalty base of the State is reduced as provided
19 for in subparagraph (B)(ii)(II) of such section with
20 respect to a county, then the amount expended by
21 the State to carry out the State plan in the county
22 during the fiscal year shall be not less than—

1 "(A) the total amount expended by the
2 State to carry out the State plan during the fis-
3 cal year, plus the amount by which the penalty
4 base is so reduced; multiplied by
5 "(B) a percentage equal to—
6 "(i) the amount expended by the
7 State to carry out the State plan in the
8 county during the preceding fiscal year; di-
9 vided by
10 "(ii) the total amount expended by the
11 State to carry out the State plan during
12 the preceding fiscal year.".

Diana Fortuna 03/04/98 03:08:01 PM

Record Type: Record

To: Janet Murguia/WHO/EOP, Jessica L. Gibson/WHO/EOP

cc: Cynthia A. Rice/OPD/EOP, Karen E. Skelton/WHO/EOP, Barbara Chow/OMB/EOP

Subject: Call from Rep. Millender-McDonald to Erskine on LA exemption from CA child support penalty

Rep. Millender-McDonald of Calif. spoke to Erskine today seeking his support of an amendment to exempt LA County from the penalty that the state of California is facing for failing to get its child support system up and running on time. Carole Parmalee told me that he simply told her to send him some paper and his office would get back to her about whether we support it. She is forwarding the info to your office to get back to her.

We have not been supportive of LA County's efforts to get such an amendment to date. California has done a dismal job automating its child support systems. The state would now be facing a nuclear penalty of the loss of all its federal money, but a Shaw-Levin bill going to the floor tomorrow (HR3130) will scale the penalty back to $14-16 million the first year, and $30 million next year. We support that bill. LA County argues that it has a good county computer system, and it's not their fault that the state screwed up. However, agreeing to reduce the penalty by LA County's share, as LA wants, would set a big precedent and encourage all kinds of localities to seek similar exemptions.

This will probably be on the floor in the House tomorrow morning, FYI. Let me know how you want to proceed.

Diana Fortuna 03/04/98 02:53:47 PM

Record Type: Record

To: Karen E. Skelton/WHO/EOP
cc: Cynthia A. Rice/OPD/EOP
bcc:
Subject: Re: Call from Calif. member of Congress to exempt LA County

The penalty state-wide is $14-$16 million in the first year. LA would be something like 25% of that. The penalty would grow to $30 million next year.

Carol Parmalee says that Erskine did talk to the member of Congress today, but promised only to look into the matter.

Karen E. Skelton

Karen E. Skelton 03/04/98 02:15:12 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP
cc:
Subject: Re: Call from Calif. member of Congress to exempt LA County

Thanks for letting me know the answer to this.

Gil Garcetti is calling lots about this.

What is the total fine CA faces?

Diana Fortuna 02/26/98 12:01:05 PM

Record Type: Record

To: Wendy A. Taylor/OMB/EOP

cc: Cynthia A. Rice/OPD/EOP
Subject: child support reg

I must say I thought HHS had some good arguments in the conference call today: (1) making even totally successful states that are already certified to let an IV&V contract and (2) letting states pick contractors only from a list approved by the feds seems excessive and likely to give states some pretty good rhetoric against us.

Wendy A. Taylor 02/26/98 01:16:09 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP, Edwin Lau/OMB/EOP, Timothy R. Fain/OMB/EOP

cc: Keith J. Fontenot/OMB/EOP, Daniel J. Chenok/OMB/EOP

Subject: Next Steps on Child Support

Assuming we get the additional background info from HHS early enough tomorrow, I propose we meet in the early afternoon to sort through our options and then present our recommendations up the chain. Also, let's finalize our review of the rest of the rule and be ready to sort out any remaining issues at that time as well. With the follow-up call scheduled for Monday at 12:30, I want to try to come to a resolution on these issues by the end of the day tomorrow if at all possible.

I propose we meet at 1:30 tomorrow. If that doesn't work, please give me alternative times (preferably early afternoon). Thanks to everyone for pushing so hard on this one.

Executive Office of the President of the United States
Office of Management and Budget

Office of Information and Regulatory Affairs
Human Resources and Housing Branch
New Executive Office Building
Room 10235
Washington, DC 20503

FAX TRANSMITTAL

FAX: 202-395-6974

DATE: _____

TO: Diaz/Cynthia

FROM: Wendy Taylor

Total number of pages (Including Transmittal Sheet): _____

Recipient's Fax Number: 67431

Recipient's Telephone Number: _____

Comments: HHS's proposed changes on systems

ADMINISTRATION FOR CHILDREN AND FAMILIES

Madeline Mocko, Director
Office Of Legislative Affairs and Budget (OLAB)
7th Floor Aerospace Building
901 D Street, SW
Washington, DC 20447
(202) 401-9223 FAX (202) 401-4562

TO: Wendy Taylor
395-6974

DATE: 2/25/98

__ URGENT __ AS REQUESTED ✓ COMMENT __ CLEARANCE __ FYI __ REPLY ASAP

Attached are proposed change pages to the CS System reg. per our discussion this morning.

I'll talk to you tomorrow at 11:00.

Thanks —
Maddy

Preamble Insert

functional requirements by October 1, 2000. Therefore, the proposed paragraph (b)(2) would require that the APD specify how the objectives of a CSES that meets the functional requirements in §307.10 of the regulations, or the functional requirements in §307.11 of the regulations, will be carried out throughout the State including a projection of how the proposed system will meet the functional requirements and encompass all political subdivisions of the State by October 1, 1997, or also meet the additional functional requirements and encompass all political subdivisions of the State by October 1, 2000.

Under this proposal, the State may submit a separate APD for each group of functional requirements. The State may also update its current APD for the development and implementation of a system to meet the October 1, 1997, requirements in order to address the functional requirements that must be met by October 1, 2000. We also propose to replace the citation "§307.10" with the citations "§§307.10, or 307.11" where it appears in paragraphs (a), (b), and (c).

A number of States experienced difficulty in developing systems that complied with Family Support Act requirements and, as a consequence, failed to meet the October 1, 1997, deadline for having such systems in place. As a result, OCSE has reviewed the Federal and State experience over the past several years and

based on that review, we are putting into place administratively a number of improvements in the Federal and State oversight process. In addition, we are proposing several changes to these regulations that will strengthen the oversight and management of CSE systems development projects.

Continuing a trend begun last year, we will be more aggressively monitoring State CSE development efforts. We intend to conduct on-site technical assistance visits and reviews in all States this year, as we did last year. States whose system development efforts are lagging will receive multiple visits. We are in the process of procuring the services of one or more contractors to augment our ability to monitor States progress.

In addition, we will be more closely reviewing State APD and APDU submissions. One area of focus will be on the resources available to: (1) monitor the progress of systems development efforts, (2) assess deliverables, and (3) take corrective action if the project goes astray. Using our current regulatory authority, we will not approve a State's APD unless we are convinced that adequate resources are available for these purposes, as well as for the systems design and implementation processes.

Most States already retain Quality Assurance assistance, using

either contractors or State staff. We will not approve a State's APD unless it evidences adequate quality assurance services. These services may be procured from the private sector, or may be provided by State staff, e.g., a State's information technology office, State auditor, State data center, etc. States with a history of troubled systems development efforts will have to rigorously demonstrate that such resources are available to the project and are integrated into the project's management. We will reserve the right to require that all reports prepared by a State's quality assurance provider be submitted directly to OCSE at the same time they are submitted to the State's project management.

Further, we intend to more systematically determine and monitor key milestones in States' CSE systems development efforts, and to more closely tie project funding to those milestones. To that end, we are proposing to add language to section 307.15(b)(9) to clarify that the APD must contain an estimated schedule of life-cycle milestones related to the description of estimated expenditures by category. We would also include in the proposed regulation a specific reference to the "DHHS State Systems Guide" (September 1996) which provides more detail on the types of milestones and information required in the APD and APDU.

We will treat seriously States' failure to meet critical

milestones or to report promptly and fully on their progress toward meeting those milestones. We will approach these problems in several ways.

With respect to funding, we will generally provide funding under an approved APD only for the most immediate milestones and funding related to achievement of later milestones will primarily be contingent upon the successful completion of antecedent milestones. For States with proven track records in CSE systems development, we will continue our practice of providing funding approval on an annual basis. Since current regulations provide sufficient authority to limit funding in this way, we are not proposing any additional regulatory changes but rather reaffirming in this preamble management practices which we will follow under existing authority.

In addition, we are proposing to revise section 307.15(10) to expand the requirements for an implementation plan and backup procedures. This proposed language would require that a State either arrange for on-going independent validation and verification (IV&V) services or have in place a mechanism to obtain such services quickly. We will require, as a condition of APD approval, that States with track records of troubled CSE systems development projects obtain IV&V services for the duration of their projects. For other States, we will require

States to obtain IV&V services should we or the State identify the need for such services. Indicators of the need for such services will include: (1) a State's failure to meet a critical milestone, as identified in its APD; (2) a State's failure to timely and completely submit APD updates; or, (3) other situations which we determine indicate that a State's CSE systems development effort is at risk of failure, significant delay, or significant cost overrun.

The provider of IV&V services, whether on-going or ad hoc, must be independent of the State IV-D agency or other agency managing the State's CSE systems development project. For example, if the State IV-D agency is managing its own systems development project, the IV&V provider must report to some other State entity, e.g., the Governor's office, State information technology agency, State data center, State auditor, etc.

We are not requiring that a State procure IV&V services from the private sector. While that is an option, provided a State has an arrangement whereby such contractual services can be procured swiftly, we will also accept other knowledgeable State staff or organizations performing this function.

If IV&V services are procured, the State must obtain prior approval from OCSE for the request for proposal and contract, or

any similar documents. If the State utilizes the services of a State agency to provide IV&V services, the interagency agreement, work order, or other similar document specifying the services to be performed, the duration of those services, etc., must also be submitted to OCSE for prior approval.

We reserve the right to require that any reports prepared by an IV&V contract be submitted directly to OCSE at the same time they are submitted to the State's project manager. We will generally require such submission from State's with histories of troubled systems development efforts.

The requirement that a State obtain an IV&V contractor if it significantly misses one or more milestones in their APD is intended to assist the State in obtaining an independent assessment of their system development project. We anticipate that this assessment will result in advice and recommendations for addressing the systemic problems that resulted in the missed milestones before the situation reaches the point where suspension of the State's APD and associated Federal funding approval is necessary.

Another ramification of a State's failure to meet milestones in its APD may be full or partial suspension of the APD and associated funding. OCSE currently has authority under 45 CFR

Regulatory language

including those in section 6103 of the Internal Revenue Service Code; and

(2) Adequately trained in security procedures; and

(d) Penalties. Have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information.

9. Section 307.15 is amended by replacing the citation "§307.10" with the citations "§§307.10, or 307.11" in paragraphs (a), (b), and (c); and revising paragraph (b)(2), **(b)(9) and (b)(10)** to read as follows:

* * * * *

(b) * * *

(2) The APD must specify how the objectives of the computerized support enforcement system in §§307.10, or 307.11 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of §§307.10, or 307.11 and how the single State system will encompass all political subdivisions in the State by

October 1, 1997, or October 1, 2000 respectively.

(9) The APD must contain a proposed budget **and schedule of life-cycle milestones in accordance with DHHS "State Systems APD Guide (September 1996)" including a description of estimated expenditures by category and amount for:** (i) items that are eligible for funding at the enhanced matching ~~90%~~ rate, and (ii) items related to developing and operating the system that are eligible for Federal funding at the applicable matching rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement. **These backup procedures must include provision for independent validation and verification analysis of a State's system development effort that is:**

(i) secured on either an on-going or as-needed basis;

(ii) conducted by an entity independent from the State agency which exercises day-to-day management authority over the State's child support enforcement automated system design and implementation effort.

* * * * *

10. Section 307.25 is amended by replacing the citation "§307.10" with the citations "§§307.10, or 307.11" in the introductory language.

11. Section 307.30 is amended by revising paragraph (a) and (b) to read as follows:

* * * * *

(a) Conditions that must be met for FFP. During Federal fiscal years 1996, and 1997, Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§307.5 and 307.10 of this chapter limited to the amount in an advance planning document, or APDU submitted on or before September 30, 1995, and approved by OCSE if:

* * * * *

(b) Federal financial participation in the costs of hardware and proprietary software. (1) Until September 30, 1997, FFP at

Diana Fortuna 03/04/98 06:01:31 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: I just signed off on final version of CS HR3130 sap; it's going up tonight

Here it is below. It turned out well. They ended up dropping the Cardin amendment language because Leg Affairs questioned why we were singling out that amendment over others, like Millender-McDonald's. I think that is fine.

H.R. 3130 - Child Support Performance and Incentive Act of 1998
Reps. Shaw (R) FL and Levin (D) MI

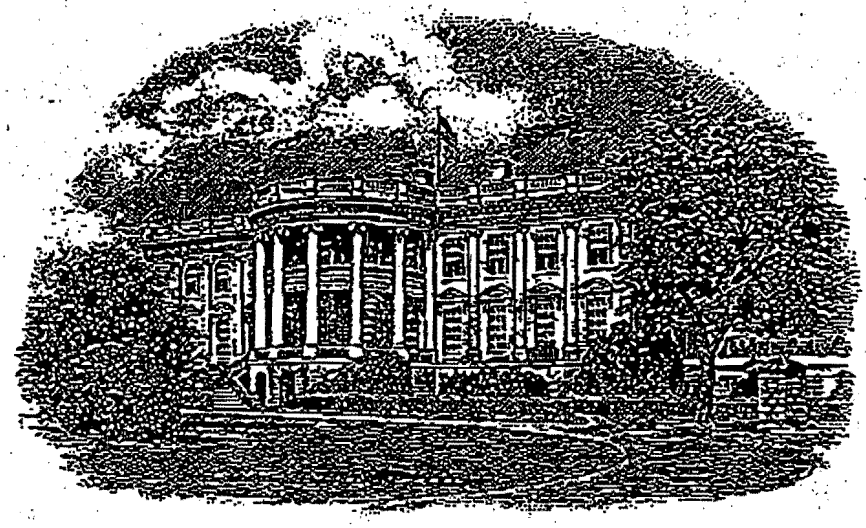
The Administration supports H.R. 3130, which would spur States' compliance with the current-law requirement for federally certified automated child support enforcement systems by imposing automatic and escalating penalties for those that fail to meet statutory deadlines. In addition, H.R. 3130 would reform the current incentive funding system to encourage States to operate more effective child support enforcement programs.

The Administration, however, is concerned about the provision of the bill that would allow Federal reimbursement for linked county-based child support enforcement systems. Such reimbursement may encourage States to try inappropriately to link local computer systems instead of creating functioning State-wide systems. If this provision is enacted, it will have a small impact on Federal costs. HHS, however, will ensure overall cost neutrality by serving as the final authority to determine whether a county-based system is equally functional to a State-wide system and scrutinizing State cost estimates, including baseline costs.

Pay-As-You-Go Scoring

H.R. 3130 would affect direct spending; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that H.R. 3130 would result in a net decrease in direct spending of $35 million in FY 1998 and a total of $166 million during FYs 1998-2003.
* * * * * * * *

EXECUTIVE OFFICE OF THE PRESIDENT



Office of Management and Budget

FAX TRANSMITTAL COVER SHEET

Number of pages (including cover sheet) 8

Date: 3/4/98

To: Diana Fortuna

Fax No. _____ Voice No. _____

Comments: Draft SAP on HR 3130 follows.
We aim to send it up tonight.
I'll await your clearance!
Allie (5-4790)

From: _____

Fax No.: 202-395-3888 Voice No. 202-395-4840

DRAFT - NOT FOR RELEASE

March 4, 1998
(House)

H.R. 3130 - Child Support Performance and Incentive Act of 1998
Reps. Shaw (R) FL and Levin (D) MI

The Administration supports H.R. 3130, which would spur States' compliance with the current-law requirement for federally certified automated child support enforcement systems by imposing automatic and escalating penalties for those that fail to meet statutory deadlines. In addition, H.R. 3130 would reform the current incentive funding system to encourage States to operate more effective child support enforcement programs.

The Administration, however, is concerned about the provision of the bill that would allow Federal reimbursement for linked county-based child support enforcement systems. Such reimbursement may encourage States to try inappropriately to link local computer systems instead of creating functioning State-wide systems. If this provision is enacted, it will have a small impact on Federal costs. HHS, however, will ensure overall cost neutrality by serving as the final authority to determine whether a county-based system is equally functional to a State-wide system and scrutinizing State cost estimates, including baseline costs.

The Administration understands that Rep. Cardin may offer an amendment to H.R. 3130 that would make aliens ineligible to receive visas and exclude them from admission to the United States for failure to pay child support. Although the Administration supports the goal of this amendment -- to provide additional incentives for aliens to pay child support -- it believes the amendment's approach may go beyond its intended purpose.

Pay-As-You-Go Scoring

H.R. 3130 would affect direct spending; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that H.R. 3130 would result in a net decrease in direct spending of $35 million in FY 1998 and a total of $166 million during FYs 1998-2003.

* * * * * * * *

(Do Not Distribute Outside the Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Haskins) in consultation with HRD (Fontenot/Lau), BASD (Bavier), and OIRA (Bernstein/Fain) as well as the Departments of Health and Human Services (Griffin) and Justice (Jones). The Departments of Agriculture (Allen) and Labor (Blank) had no comment.

Background

The welfare reform law (P.L. 104-193) directed the Department of Health and Human Services (HHS) to recommend a new Federal incentive system to encourage States to collect child support payments more effectively. On March 13, 1997, HHS transmitted a report to the House Committee on Ways and Means with recommendations for reform.

With input from HHS, H.R. 2487, the Child Support Incentive Act of 1997, was introduced on September 16, 1997. On September 29, 1997, H.R. 2487 passed the House under suspension of the rules before a SAP could be issued. At the time, however, OMB had concerns about the outyear costs of the bill.

H.R. 3130 was introduced on January 28th. It includes provisions similar to H.R. 2487. Unlike H.R. 2487, the bill would specify the total amount of incentive payments available in each of FYs 2000-2007, thereby meeting, by Congressional Budget Office (CBO) estimates, the P.L. 104-193 stipulation that the bill be cost neutral. In addition, H.R. 3130 would reduce the current-law penalty imposed by HHS on States that fail to meet the statutory requirements for automated child support enforcement systems.

Administration Position to Date

The Administration has not previously taken a formal position on H.R. 3130. HHS, however, testified before the House Ways and Means Subcommittee on Human Resources on January 29th stating it has "serious concerns with the provision in the bill [H.R. 3130] that may encourage states to try inappropriately to link local computer systems instead of creating functioning statewide systems." H.R. 3130 would create a less stringent penalty for HHS to impose on States in lieu of the current-law sanction for non-compliance with the requirements of the Family Support Act.

Summary of H.R. 3130, As Ordered Reported

The Committee report on H.R. 3130 is not yet available. The following summary is based on information provided by the House Committee on Ways and Means.

Title I – Child Support Data Processing Requirements

Alternative Penalties for States without HHS-Certified Child Support Enforcement Systems

The Family Support Act of 1988 required each State to have in effect an HHS-approved, State-wide automated data processing (ADP) system for child support enforcement (CSE) by October 1995. P.L. 104-035, which amended the Act, extended the deadline to October 1997. A State that failed to meet the deadline is at risk of losing all of its Federal CSE funding. As a consequence, its Temporary Assistance for Needy Families (TANF) block grant also is jeopardized. On January 28, 1998, HHS notified 16 States, the District of Columbia, and one Territory of its intent to disapprove their CSE ADP plans and impose the non-compliance penalty.

H.R. 3130 would create a less stringent penalty for HHS to impose on States in lieu of the current-law sanction for non-compliance with the requirements of the Family Support Act. A State that missed the October 1997 compliance deadline would be eligible to receive the alternative sanction if it: (1) demonstrates a good faith effort to meet the Act's CSE automation requirements and (2) has an HHS-approved corrective compliance plan for completion of its system.

Under the alternative penalty, a non-compliant State would lose four percent of its Federal FY 1997 CSE funding. The penalty would increase annually up to a maximum of 20 percent of the prior year's Federal reimbursement. If a penalized State achieves compliance with the Family Support Act's system requirements before the first day of the next fiscal year, the penalty for the current fiscal year would be reduced by 75 percent. HHS could, however, waive a State's penalty if, by December 31, 1997, it had received the State's system certification request and granted its approval.

HHS Waiver of Single State-wide Automated CSE System Requirement

Under current law, HHS may waive certain CSE data processing requirements for States while continuing to provide them with Federal reimbursement for their CSE programs. Current law, however, permits HHS to reimburse a State's spending on a single State-wide CSE system or linked multiple systems under a waiver – though not the costs of the linked system's components (i.e., computers). H.R. 3130 would expand HHS' waiver authority to include reimbursement of the costs of the components of the linked multiple systems within a State. To qualify for the waiver, States would have to demonstrate that their linked systems meet certain criteria, including that the alternative system would process CSE cases as effectively and efficiently as possible under a single State-wide system.

H.R. 3130 would require States to provide HHS with separate cost estimates comparing the development and operating costs of a single State-wide system and the alternative multiple linked systems being proposed. States operating multiple, linked CSE systems would receive the current

Federal reimbursement match of 66 percent as long as the total cost of the alternative systems does not exceed the cost of developing and operating a single State-wide system.

Title II – Child Support Incentive System

Changes to the Child Support Incentive Payment Formula

The Federal Government rewards States for collecting child support from non-custodial parents, including welfare (TANF) recipients. The current formula used to calculate child support enforcement incentive payments is based primarily on the total amount of child support collected as well as a State's efficiency in collecting child support. It does not take into account other "output" measures, such as paternity establishment.

H.R. 3130 would amend the formula used to calculate the Federal child support enforcement incentive payment to States. The new formula would change both the components of the collection base and the percentage of the base that States receive. Although States still would receive payments based on the amount of child support collected on behalf of welfare and non-welfare recipients, the new formula would more heavily weigh collections from former welfare recipients to encourage States' efforts to keep individuals from becoming welfare beneficiaries. In addition, it would include five performance measures: (1) paternity establishment; (2) support orders obtained; (3) collection of current payments; (4) collection of payments in arrears; and (5) cost effectiveness. Generally, each State would receive a share of the total CSE incentive payment pool based on its performance against the five new measures.

Under H.R. 3130, a State's performance in each category would be weighted and compared to a national performance scale to calculate the incentive payment percentage for that measure. The State then would receive that percentage of its child support collections base, which is calculated by doubling the amount of collections from families who are or were previously on welfare and adding collections from families in the State child support program that were never on welfare. The bill would lift the current-law cap on the proportion of incentive funds that can be earned as the result of collections from non-welfare recipients. A State's total incentive payment would be the sum of its incentive payments on all five measures.

For each performance measure except cost-effectiveness, the bill would provide additional incentives for States performing below the minimum incentive level to improve their performance. States performing below the minimum level for incentive funds would be considered to be at the minimum level if they demonstrate that they have improved their performance over the previous year by at least 10 percentage points (in the case of paternity establishment) or 5 percentage points (in the cases of child support orders, current payments, and arrears payments).

Cost Neutrality

To ensure cost-neutrality, H.R. 3130 would cap the amount of the incentive payment pool. The cap would equal the CBO estimate of incentive payments for each year under current law. Specifically, for FYs 2000-2007, the amounts (in millions) would be, respectively, $422, $429, $450, $461, $454, $446, $458, and $471. After FY 2007, the incentive payment pool would increase each year by the Consumer Price Index.

State Reinvestment in CSE Efforts

States would be required to spend their child support incentive payments to "supplement, and not supplant" child support enforcement programs or to conduct Secretary-approved activities that may contribute to improving the effectiveness or efficiency of their child support programs. A State's receipt of incentive payments would be contingent upon HHS' determination that the State has submitted complete and reliable data.

Transition from Old to New Formula

The new incentive system would be phased in over three years. In FY 2000, one-third of each States's incentive payments would be determined using the new formula and two-thirds under the old formula. In FY 2001, the two-thirds of the incentive payment would be determined using the new formula, and one-third under the old. In FY 2002, the payment would be determined totally using the new formula.

Regulatory and Reporting Requirements

H.R. 3130 would require HHS to issue regulations for implementing the new CSE incentive system within nine months of the bill's enactment. It would also require HHS to issue interim and final reports to the Congress that analyze the economic effect of the new system on States. In addition, HHS would be required, in consultation with State child support directors and representatives of children potentially eligible for medical support, to develop and report to Congress a performance measure for the incentive payment formula based on the effectiveness of enforcing medical support orders.

Welfare Reform CSE Data Processing Requirements

The welfare reform law (P.L. 104-193) imposed CSE automated systems requirements on States with an October 1, 2001, compliance date. H.R. 3130 would permit HHS to reduce, by 20 percent, its annual penalty for States failing to meet the P.L. 104-193 requirements for each performance measure under the new incentive formula for which it receives a maximum score.

Title III – Adoption

H.R. 3130 would establish a more flexible penalty than under current law for States that fail to permit adoptions across interjurisdictional lines. Under the new penalty, States would be subject to a penalty equal to up to five percent of the Federal funds that they receive for foster care and adoption assistance.

H.R. 3130 also would give States until April 30, 1998, to report certain data to HHS for use in calculating the Federal adoption incentive payment enacted in H.R. 867 (P.L. 105-089). HHS would have until July 1, 1998, to certify the States' information.

Pay-As-You-Go

According to HRD (Fontenot/Lau), H.R. 3130 is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. H.R. 3130 would increase direct spending slightly because it would allow Federal funding for the development of linked child support enforcement system components that are not reimbursable under current law and that States themselves have already committed to financing. This spending increase would be offset by a

decrease in direct spending due to: (1) a cap on the amount of the incentive payment pool that would bring total incentive payments during FYs 1998-2003 slightly below the FY 1999 Budget estimate; and (2) the creation of alternative penalties that HHS could impose on States that fail to meet the automated data processing system requirements of the Family Support Act of 1988. In total, H.R. 3130 would result in a decrease in direct spending of $35 million in FY 1998 and a total of $166 million during FYs 1998-2003.

CBO estimates that the bill would not affect direct spending in FY 1998, and would reduce direct spending by $10 million during FYs 1998-2003. These estimates differ because CBO: (1) assumes a later date of enactment that would cause FY 1998 child support enforcement penalties to be collected in FY 1999 even though the total impact of the bill would not change; and (2) CBO assumes greater use of HHS' authority to collect audit penalties under current law. The President's FY 1999 Budget baseline assumed that no penalties would be collected, because the State appeals process will push collection efforts beyond the PAYGO window and, based on past experience, the penalties in current law are too severe to be imposed successfully. OMB currently estimates that the proposed penalties will be collected from 16 States and the District of Columbia, totaling $170 million during FYs 1998-2003. CBO assumes that $250 million will be collected during FY 1999 through 2003 under the current law penalties and $260 million under the proposed penalties, for a net increase of $10 million in collections.

LEGISLATIVE REFERENCE DIVISION DRAFT
March 3, 1998 - 2 p.m.

OFFICE OF MANAGEMENT AND BUDGET

Legislative Reference Division
Labor-Welfare-Personnel Branch

Telecopier Transmittal Sheet

URGENT

FROM: Melinda Haskins **395-3923**

DATE: 2/26/98 **TIME:** 11:06 am

Pages sent (including transmittal sheet): 7

COMMENTS:

Attached is the "Cardin Amendment" to HR 3130. We understand that this will be added to the bill before it is considered. What's your take on this?

TO: Greg Jones - DOJ
Vanessa Harrison - State

cc: Diana Fortuna
Cynthia Rice
Julie Fernandes

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.

[DISCUSSION DRAFT]

AMENDMENT TO H.R. 3130, AS REPORTED

OFFERED BY MR. CARDIN OF MARYLAND

In the table of contents of the bill, add at the end the following:

TITLE IV—IMMIGRATION PROVISIONS

Sec. 401. Aliens ineligible to receive visas and excluded from admission for nonpayment of child support.
Sec. 402. Effect of nonpayment of child support on establishment of good moral character.
Sec. 403. Authorization to serve legal process in child support cases on certain arriving aliens.
Sec. 404. Authorization to obtain information on child support payments by aliens.

At the end of the bill, add the following:

1 **TITLE IV—IMMIGRATION**
2 **PROVISIONS**

3 **SEC. 401. ALIENS INELIGIBLE TO RECEIVE VISAS AND EX-**
4 **CLUDED FROM ADMISSION FOR NONPAY-**
5 **MENT OF CHILD SUPPORT.**

6 (a) IN GENERAL.—Section 212(a)(10) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1182(a)(10)) is
8 amended by adding at the end the following:

9 "(F) NONPAYMENT OF CHILD SUPPORT.—
10 "(i) IN GENERAL.—Any alien is inad-
11 missible who is legally obligated under a
12 judgment, decree, or order to pay child
13 support (as defined in section 459(i) of the

ID:5-3130 FEB 26 '98 11:55 NO.005 P.02

1 Social Security Act), and whose failure to
2 pay such child support has resulted in an
3 arrearage exceeding $5,000, until child
4 support payments under the judgment, de-
5 cree, or order are satisfied or the alien is
6 in compliance with an approved payment
7 agreement.

8 "(ii) APPLICATION TO PERMANENT
9 RESIDENTS.—Notwithstanding section
10 101(a)(13)(C), an alien lawfully admitted
11 for permanent residence in the United
12 States who has been absent from the Unit-
13 ed States for any period of time shall be
14 regarded as seeking an admission into the
15 United States for purposes of this subpara
16 graph.

17 "(iii) WAIVER AUTHORIZED.—The At-
18 torney General may waive the application
19 of clause (i) in the case of an alien, if the
20 Attorney General-

21 "(I) has received a request for
22 the waiver from the court or adminis-
23 trative agency having jurisdiction over
24 the judgment, decree, or order obligat-

FEB 26 98 11:55 NO.005 P.05
ID:5-5150

1 ing the alien to pay child support that
2 is referred to in such clause; and
3 "(II) determines that the likeli-
4 hood of the arrearage being elimi-
5 nated, and all subsequent child sup-
6 port payments timely being made by
7 the alien, would increase substantially
8 if the waiver were granted.".
9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect 180 days after the date of
11 the enactment of this Act.
12 **SEC. 402. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON**
13 **ESTABLISHMENT OF GOOD MORAL CHAR-**
14 **ACTER.**
15 (a) IN GENERAL.—Section 101(f) of the Immigration
16 and Nationality Act (8 U.S.C. 1101(f)) is amended—
17 (1) in paragraph (8), by striking the period at
18 the end and inserting "; or"; and
19 (2) by inserting after paragraph (8) the follow-
20 ing:
21 "(9) one who is legally obligated under a judg-
22 ment, decree, or order to pay child support (as de-
23 fined in section 459(i) of the Social Security Act),
24 and whose failure to pay such child support has re-
25 sulted in any arrearage, unless child support pay-

ID:5-3130 FEB 26'98 11:54 NO.005 P.04

1 ments under the judgment, decree, or order are sat-
2 isfied or the alien is in compliance with an approved
3 payment agreement.".
4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to aliens applying for a benefit
6 under the Immigration and Nationality Act on or after
7 180 days after the date of the enactment of this Act.
8 SEC. 403. AUTHORIZATION TO SERVE LEGAL PROCESS IN
9 CHILD SUPPORT CASES ON CERTAIN ARRIV-
10 ING ALIENS.
11 (a) IN GENERAL.—Section 235(d) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1225(d)) is amended
13 by adding at the end the following:
14 "(5) AUTHORITY TO SERVE PROCESS IN CHILD
15 SUPPORT CASES.—
16 "(A) IN GENERAL.—To the extent consist-
17 ent with State law, immigration officers are au-
18 thorized to serve on any alien who is an appli-
19 cant for admission to the United States legal
20 process with respect to any action to enforce or
21 establish a legal obligation of an individual to
22 pay child support (as defined in section 459(i)
23 of the Social Security Act).
24 "(B) DEFINITION.—For purposes of sub-
25 paragraph (A), the term 'legal process' means

1 any writ, order, summons or other similar proc-
2 ess, which is issued by—
3 "(i) a court or an administrative
4 agency of competent jurisdiction in any
5 State, territory, or possession of the Unit-
6 ed States; or
7 (ii) an authorized official pursuant to
8 an order of such a court or agency or pur-
9 suant to State or local law.".
10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to aliens applying for admission
12 to the United States on or after 180 days after the date
13 of the enactment of this Act.

14 SEC. 404. AUTHORIZATION TO OBTAIN INFORMATION ON
15 CHILD SUPPORT PAYMENTS BY ALIENS.

16 Section 453(h) of the Social Security Act (42 U.S.C.
17 653(h)) is amended by adding at the end the following:
18 "(3) PROVISION TO ATTORNEY GENERAL AND
19 SECRETARY OF STATE OF INFORMATION ON PER-
20 SONS DELINQUENT IN CHILD SUPPORT PAY-
21 MENTS.—On request by the Attorney General or the
22 Secretary of State, the Secretary of Health and
23 Human Services shall provide the requestor with
24 such information as the Secretary of Health and
25 Human Services determines may aid them in deter-

ID:5-3130 FEB 26 '98 11:34 NO.005 P.06

1 mining whether an alien is delinquent in the pay-
2 ment of child support.".

Amend the title so as to read: "A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes.".

Total Pages: 7

LRM ID: JRD8

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, February 25, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: **Statement of Administration Policy on HR3130 Child Support Performance and Incentive Act of 1998**

DEADLINE: **11:00 a.m. Thursday, February 26, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: The House will consider H.R. 3130 sometime during the week of March 2nd.

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LRM ID: JRD8 SUBJECT: Statement of Administration Policy on HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)

_____ (Name)

_____ _____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT - NOT FOR RELEASE

February 25, 1998
(House)

H.R. 3130 - Child Support Performance and Incentive Act of 1998
Reps. Shaw (R) FL and Levin (D) MI

The Administration supports H.R. 3130, which would create an alternative penalty structure for States whose child support enforcement automated systems are not yet Federally certified. In addition, it would reform the current incentive funding system to encourage States to operate more effective child support enforcement programs.

The bill, however, should be amended to preclude Federal reimbursement of linked county-based child support enforcement systems. The Administration will work with the House and Senate to address this concern.

Pay-As-You-Go Scoring

H.R. 3130 would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Reconciliation Act of 1990. OMB's preliminary scoring estimate of the bill is under development.

* * * * * * * *

(Do Not Distribute Outside the Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Haskins) in consultation with HRD (Fontenot/Lau), BASD ( ), and OIRA (Oliven) as well as the Departments of Health and Human Services ( ) and Justice ( ).

Background

The welfare reform law (P.L. 104-193) directed the Department of Health and Human Services (HHS) to recommend a new Federal incentive system to encourage States to collect child support payments more effectively. On March 13, 1997, HHS transmitted a report to the House Committee on Ways and Means with recommendations for reform.

With input from HHS, H.R. 2487, the Child Support Incentive Act of 1997, was introduced on September 16, 1998. On September 29, 1997, H.R. 2487 passed the House under suspension of the rules before a SAP was issued. At the time, however, OMB had concerns about the outyear costs of the bill.

H.R. 3130 was introduced on January 28th. It includes provisions similar to H.R. 2487. Unlike H.R. 2487, the bill would specify the total amount of incentive payments available in each of Fiscal Years 2000-2007, thereby meeting, by Congressional Budget Office (CBO) estimates, the

P.L. 104-193 stipulation that the bill be cost neutral. In addition, H.R. 3130 would amend the current-law penalty imposed by HHS on States that fail to meet the statutory requirements for automated child support enforcement systems.

Administration Position to Date

The Administration previously has not taken a formal position on H.R. 3130. HHS, however, testified before the House Ways and Means Subcommittee on Human Resources on January 29th stating it has "serious concerns with the provision in the bill [H.R. 3130] that may encourage states to try inappropriately to link local computer systems instead of creating functioning statewide systems." H.R. 3130 would expand HHS' waiver authority to permit Federal reimbursement of all costs associated with the linkage of multiple child support systems (i.e., county systems) within a State.

Summary of H.R. 3130, As Ordered Reported

The Committee report for H.R. 3130 is not yet available. The following summary is based on information provided by the House Committee on Ways and Means.

Title I -- Child Support Data Processing Requirements

Alternative Penalties for States without HHS-Certified Child Support Enforcement Systems

The Family Support Act of 1998 required each State to have in effect an HHS-approved, State-wide automated data processing system for child support enforcement (CSE) by October 1995. P.L. 104-035, which amended the Act, extended the deadline to October 1997. A State that failed to meet the deadline is at risk of losing its Federal CSE funding. As a consequence, its Temporary Assistance for Needy Families (TANF) block grant also will be jeopardized. On January 28, 1998, HHS notified 14 States and 2 Territories of its intent to disapprove their child support enforcement State plans and impose the non-compliance penalty.

H.R. 3130 would create a less stringent penalty for HHS to impose on States in lieu of the current-law sanction for non-compliance with the requirements of the Family Support Act. A State would be eligible to receive the alternative sanction if it: (1) demonstrates a good faith effort to meet the Act's CSE automation requirements and (2) has an HHS-approved corrective compliance plan for completion of its system.

Under the alternative penalty, a non-compliant State would lose four percent of its Federal reimbursement for FY 1997 CSE administrative costs. The penalty would increase annually up to a maximum of 20 percent. If a penalized State achieves compliance with the Family Support Act's system requirements before the first day of the next fiscal year, then the penalty for the

current fiscal year would be reduced by 75 percent. HHS could, however, waive a State's penalty if, by December 31, 1997, it received the State's system certification request and granted its approval.

HHS Waiver of Single State-wide Automated CSE System Requirement

Under current law, HHS may waive certain CSE data processing requirements for States while continuing to provide them with Federal reimbursement for their CSE programs. Current law, however, only permits HHS to reimburse a State's spending on a single State-wide CSE system. H.R. 3130 would expand HHS' waiver authority to include reimbursement of the costs associated with linking multiple CSE systems within a State. To qualify for the waiver, States would have to demonstrate that their linked systems meet certain criteria, including that the alternative system would process CSE cases as effectively and efficiently as possible under a single State-wide system.

H.R. 3130 would require States to provide HHS with separate cost estimates comparing the development and operating costs of a single Statewide system and the alternative multiple linked systems being proposed. States operating multiple, linked CSE systems would receive the current Federal reimbursement match of 66 percent as long as the total cost of the alternative systems does not exceed the cost of developing and operating a single State-wide system.

Title II -- Child Support Incentive System

Changes to the Child Support Incentive Payment Formula

The Federal government rewards States for collecting child support on behalf of non-custodial parents, including welfare (TANF) recipients. The current formula used to calculate child support enforcement incentive payments is based primarily on the total amount of child support collected as well as a State's efficiency in collecting child support. It does not take into account other "output" measures, such as paternity establishment.

H.R. 3130 would amend the formula used to calculate the Federal child support enforcement incentive payment to States. According to CBO, the new formula would change both the components of the collection base and the percentage of the base that States receive. Although States still would receive payments based on the amount of child support collected on behalf of welfare and non-welfare recipients, the new formula would more heavily weigh collections from former welfare recipients to encourage States' efforts to keep individuals from becoming welfare beneficiaries. In addition, it would include five performance measures: (1) paternity establishment; (2) support orders obtained; (3) collection of current payments; (4) collection of payments in arrears; and (5) cost effectiveness. Generally, each State would receive a share of the total CSE incentive payment pool based on its performance against the five new measures.

Under H.R. 3130, a State's performance in each category would be weighted and compared to a national performance scale to calculate the incentive payment percentage for that measure. The State then would receive that percentage of its child support collections base (which is calculated by doubling the amount of collections from families who are or were previously on welfare and adding collections from families in the State child support program that were never on welfare). A State's total incentive payment would be the sum of its incentive payments on all five measures.

For each performance measure except cost-effectiveness, the bill would provide additional incentives for States performing below the minimum incentive level to improve their performance. States performing below the minimum level for incentive funds would be considered to be at the minimum level if they demonstrate that they have improved their performance over the previous year by at least 10 percentage points (in the case of paternity establishment) or 5 percentage points (in the cases of child support orders, current payments, and arrears payments).

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To ensure cost-neutrality, H.R. 3130 would cap the amount of the incentive payment pool. The cap would equal the CBO estimate of incentive payments for each year under current law. Specifically, for Fiscal Years 2000-2007, the amounts (in millions) would be, respectively, $439, $446, $468, $479, $473, $465, $478, and $490. After Fiscal Year 2007, the incentive payment pool would increase each year by the Consumer Price Index.

State Reinvestment in CSE Efforts

States would be required to spend their child support incentive payments to carry out child support enforcement programs or to conduct Secretary-approved activities that may contribute to improving the effectiveness or efficiency of their child support programs. A State's receipt of incentive payments would be contingent upon HHS' determination that the State has submitted complete and reliable data.

Transition from Old to New Formula

The new incentive system would be phased in over three years. In Fiscal Year 2000, one third of each States's incentive payments would be determined using the new formula and two-thirds under the old formula. In Fiscal Year 2001, the two-thirds of the incentive payment would be determined using the new formula, and one-third under the old. In Fiscal Year 2002, the payment would be determined totally using the new formula.

Regulatory and Reporting Requirements

H.R. 3130 would require HHS to issue regulations for implementing the new CSE incentive system within nine months of the bill's enactment. It would also require HHS to issue interim and final reports to the Congress that analyze the economic effect of the new system on States. In

addition, HHS would be required, in consultation with State child support directors and children potentially eligible for medical support, to develop and report to Congress a performance measure for the incentive payment formula based on the effectiveness of enforcing medical support orders.

Welfare Reform CSE Data Processing Requirements

The welfare reform law (P.L 104-193) imposed CSE automated systems requirements on States by which they must comply by October 1, 2001. H.R. 3130 would permit HHS to reduce, by 20 percent, its annual penalty for States failing to meet the P.L. 104-193 requirements for each performance measure under the new incentive formula for which it receives a maximum score.

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H.R. 3130 would establish a more flexible penalty than under current law for States that fail to permit adoptions across interjurisdictional lines. Under the new penalty, States would be subject to a penalty equal to up to five percent of the Federal funds that they receive for foster care and adoption assistance.

H.R. 3130 also would give States until April 30, 1998, to report certain data to HHS for use in calculating the Federal adoption incentive payment enacted in H.R. 867 (P.L. 105-089). HHS would have until July 1, 1998, to certify the States' information.

Pay-As-You-Go

[Edwin is working on the estimate. Note CBO may adjust its baseline.]

LEGISLATIVE REFERENCE DIVISION DRAFT
February 25, 1998 - 12:30 p.m.

DATE: _____

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

PHONE: (202) 690-6311 FAX: (202) 690-8425

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
HUMAN SERVICES LEGISLATION
ROOM 413 H HUMPHREY BUILDING

TO : Cynthia Rice
Diana Fortuna

OFFICE : _____

ROOM NO : _____

PHONE NO : _____

FAX NO : 456-7431

TOTAL PAGES (INCLUDING COVER): 2

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[ ] GREG JONES
[ ] PATRICIA BRAVO
[ ] AMY LOCKHART
[✓] LAUREN GRIFFIN
[ ] LULA BARNES

REMARKS:

Here is the paragraph that we sent OMB as a substitute for paragraph 2 in the SAP. We believe this is more consistent with testimony that cleared the Administration

The Administration remains concerned about the provision which will allow states to receive federal reimbursement for linking county based systems through the waiver process and will insist that cost neutrality be maintained as required by the bill. To ensure that these waivers will be cost neutral, the Administration will interpret this provision as giving the Secretary of HHS final authority in ensuring the reasonableness of the cost estimate for a statewide system, including estimates of baseline costs.

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

STATEMENT BY

JOHN MONAHAN

PRINCIPAL DEPUTY ASSISTANT SECRETARY
ADMINISTRATION FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

BEFORE THE

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
U.S. HOUSE OF REPRESENTATIVES

JANUARY 29, 1998

Mr. Chairman and Members of the Subcommittee, thank you for providing the opportunity for me to testify today on child support enforcement systems penalties. As the Principal Deputy Assistant Secretary for the Administration for Children and Families, I have worked closely with our child support enforcement staff and with staff of this Subcommittee to find a way to ensure that every state puts in place a statewide computer system to track deadbeat parents and make them pay the child support they owe. As the Secretary stated last year, we very much welcome your leadership in fashioning a bipartisan solution to this important issue.

Child support is a critical part of welfare reform and President Clinton has made improving enforcement and increasing child support collections a top priority. In FY 1997, $12.9 billion in child support was collected on behalf of the children of America. This amount represents a 63 percent increase in child support collections since FY 1992. Significant increases since FY 1992 have also occurred in the number of paying child support cases (48 percent) and in the number of paternities established (249 percent, not including the 350,000 established through in-hospital paternity establishment processes). We are proud of this Administration's record on child support enforcement but, as the President said in his State of the Union address on Tuesday night, we must do more. He has set a goal of

increasing collections to $20 billion a year by the year 2000 through implementation of the tough new measures he called for from the start and that were ultimately enacted in the 1996 welfare reform law.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) includes requirements for license revocation, new hire reporting and use of quick enforcement techniques. However, these new rules can be implemented fully only if every state is fully automated. As requested in your invitation, my testimony will focus on automated systems compliance and the "Child Support Performance and Incentive Act of 1998", introduced by Chairman Shaw and Ranking Member Levin.

Child Support Enforcement Information Systems

Statewide automated enforcement systems are critical to the success of the child support program. Computerized systems are the only means to provide both prompt and reliable processing of information. With a current national caseload of 20 million, we must move forward aggressively with new technologies if we are to keep up with the massive volume of information and transactions in every State and between States.

The importance of automation has been recognized since the inception of the child support program. By the mid-1980's all

child support agencies had some level of automation serving families in their States. Now, newer technologies allow us to consider ever-more advanced applications for child support information systems. With the Family Support Act of 1988, Congress acknowledged the increased importance of automation to child support and required statewide automated systems in all States by October, 1995 and later extended that deadline to October, 1997.

Automated state child support programs:

1) allow a worker to initiate a case or automatically initiate a case for families receiving public assistance;

2) begin locating absent parents and tracking automated searches of State databases, such as the Department of Motor Vehicles, and refer hard-to-find cases to the Federal Parent Locator Service;

3) track, monitor and report on efforts to establish paternity and support orders;

4) accept and process case updates and keep the caseworker informed about due dates and activities;

5) monitor compliance with support orders and initiate enforcement actions such as wage withholding or tax refund offset;

6) bill cases, process payments and make disbursements; and

7) maintain information for accounting, reporting and monitoring.

There are required safeguards to protect the security and privacy of this information.

Status of State System Certification

When Child Support Deputy Director David Ross testified before you in September, sixteen States were certified as having operational child support enforcement systems. As of today, thirty-eight States have informed us that they have statewide, operational child support systems that meet the functional requirements set forth in the Family Support Act of 1988. We have certified 22 of these States and are in the process of conducting reviews or writing the certification review reports

for the remaining 16 States. Four reviews have already been conducted this year and 12 are scheduled in February and March. Many other systems are very close to completion.

While the focus of today's hearing is how to address State systems which have not been certified, I'd like to acknowledge the States who worked diligently to meet the October 1, 1997 deadline and succeeded. They deserve our congratulations.

Meeting this certification requirement is crucial. While many States are using significant levels of automation to process child support cases as they move towards certification, a comprehensive and statewide system is a necessary foundation for new provisions to track parents across State lines and ensure they pay what they owe. It is much more efficient and economical to handle child support cases with such a system, especially in an environment where greater than 30 percent of the cases involve more than one state.

Penalty for Failure to Comply

We are all aware that the current statute carries extremely stiff penalties for failure of a State to comply with the child support enforcement State plan requirement for having a comprehensive statewide child support system. By December 31, 1997, each State had to certify to us through its State plan that it had a system

meeting Family Support Act requirements. Any State without such a system in place has been notified that we intend to disapprove its State plan and informed of its appeal rights. The financial consequences for failure to meet the statutory deadline is, after appropriate due process, cessation of all Federal child support enforcement funding. If a State is not operating a child support enforcement program under an approved State plan, its TANF funds also would be in jeopardy.

The statute provides the Secretary no latitude on this issue. Accordingly, we have issued letters to 16 States providing notice of our intent to disapprove their child support enforcement state plans.

This is clearly not a situation anyone favors -- eliminating all Federal child support funds would unfairly penalize children who rely on the State's CSE program. At the same time, however, because a State's failure to automate fully is unacceptable and has repercussions which reach beyond its own borders, it is essential that States which have not complied be held accountable. Moreover, this deadline has been extended by two years already.

We believe the proposal in the bill under discussion incorporates this need for balance. The proposal creates an additional penalty that the Secretary may impose in lieu of the full

sanction, in the case of a State that has made a good faith effort to meet the automation requirements and that enters into an approved corrective compliance plan for completion of its system.

Such States would be subject to an automatic penalty equal to four percent of their Federal reimbursement for FY 1997 administrative costs. The penalty would grow annually up to a maximum of 20 percent of Federal IV-D funding for failure to have a certified system. These automatic and escalating penalties will give States a strong incentive to complete their child support systems quickly and will send a clear message about the importance of automation. We believe this proposal is tough but fair.

We support adding these new penalties precisely because we know how effective statewide computer systems can help States collect even more child support for needy children. It is for the same reason that we have serious concerns with the provision of the bill that may encourage states to try inappropriately to link local computer systems instead of creating functioning statewide systems.

Where as linked systems are not fully reimbursable under current law, this proposal expands current waiver authority to permit HHS to fund all costs associated with linking multiple child support

systems within a state, with certain key safeguards. The proposal requires that States with linked county systems in lieu of a statewide system have the same functionality as a statewide system and take no more time nor cost more to the Federal government to develop, operate and maintain. States would also be required to perform certain functions at the State level, like distribution, use statewide standardized data elements, forms and definitions and to ensure seamless interstate and intrastate case processing. These elements are critical, and we appreciate the Committee's efforts to include these thoughtful elements.

Experience shows, however, that meeting these elements will be difficult for most states. First, developing separate systems and linking them together represent a major technological task, more complicated then a single system. Second, for states which have missed the deadline for operating a certified system by October 1, 1997, the paramount goal now is to take whatever steps are necessary to install an effective automated system. With this new authority, some States may use precious time and resources to demonstrate that they can develop an approvable linked system, rather than move forward on a single statewide system. We are very concerned that the concept of a linked systems is unproven and thus poses an unnecessary risk of failure.

I want to be clear that if this waiver proposal is enacted, this Administration will set a rigorous standard of proof of cost neutrality and equal functionality. In order for these waivers to be cost neutral, we will interpret this provision as giving the Secretary final authority in ensuring the reasonableness of the cost estimate for a Statewide system, including estimates of baseline costs. In reviewing the states' cost estimates we will base our determination on such factors as the costs of completing other certified systems where the process has been done efficiently, and the transfer of existing systems. In addition, the burden of proof will rest with the state applicant to ensure that any waiver approved would result in a system that meets the critical demands of children for improved child support enforcement. We would be happy to continue to work with this Subcommittee to answer any questions about cost neutrality or the ability of these systems to meet chlid support enforcement requirements.

Conclusion

While we have serious reservations about the feasibility of the alternative system aspects, including the potential costs, we nonetheless appreciate the swift, open, bipartisan and balanced approach this Subcommittee has taken to examining child support

systems compliance and penalties. We anxiously await enactment of the proposal.

On our part, we will continue to work closely with the States and provide any assistance necessary to help them in completing their implementation efforts. Last year, ACF staff provided on-site assistance to every State and territory. States have found our assistance very helpful, and we have pledged on-going assistance.

In conclusion, Mr. Chairman, much progress has been made in developing statewide automated child support systems. Continuing automation efforts are critical to future success in providing support to America's children. We must hold States accountable to ensure our over-arching goal of building the Nation's strongest child support program ever. The child support systems penalty approach in your bill supports that goal.

I would be happy to answer any questions.

ACCESS AND VISITATION GRANTS

BACKGROUND:

Section 391 of PRWORA established a new program entitled: "Grants to States for Access and Visitation Programs." These grants enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of mediation (voluntary or mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements. See section 469B(a) of the Social Security Act (the Act).

The legislation states that

"...the amount of the grant to a State ... shall be an amount equal to the lesser of --

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

The effect of this language is to require a very large State match. For example, if a State's allocation under (2) were $90, it would have to spend $100 in State money to get the full $90 in Federal money. It has been determined that Federal expenditures under the Act can not be used as 'State expenditures' to fulfill requirements of the formula to arrive at a grant amount. Also, although States can use grant funds to support local projects, local expenditures can not be used as the match for Federal funds. Under this interpretation, if a State does not have "State expenditures" as defined by the Act they will receive no grant. In other words, the "lesser of" will be 90% of zero (State expenditures) -- i.e., zero.

If only those States which reported State expenditures last year - California, Colorado, Connecticut, Massachusetts, Michigan, and Missouri - report expenditures this year, only six States could receive grants. It's probable that more States may report expenditures and hence qualify for grants; however, it's also possible that many States will fail to qualify for a grant because they have no State expenditures.

Any unspent remainder of the $10 million will lapse, as there is no provision included in the statute to carryover these funds.

RECOMMENDATION

It clearly appears that Congress intended that all States should receive a "Minimum Allotment" under this program, but that their actual grant amount would depend upon whether or not they spent some portion of their own money in the preceding year for these activities. If they did not, they would receive a grant in an amount less than the minimum

allotment. A legislative fix is needed as soon as possible to allow all States to use the grant amount formula under section (b) of the Act to ensure that they receive at least 90 percent of the prior year's grant, even if they did not have any State expenditures during that year. The budget baseline includes expenditure of all $10 million. The proposed legislative fix would result in allowing States to spend $10 million or less, so there would be no "scoring" implications.

OPTION 1:

Include legislative language as follows:

Section 469B(b) is amended to read:

(b) AMOUNT OF GRANT -- The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of:

(1) 90 percent of expenditures made to carry out the program funded under this section, including the amount of the grant under this section, for the fiscal year; or,

(2) the allotment of the State under subsection (c) for the fiscal year.

Suggested report language:

The intent is to require at least a 10% State or local match of Federal access and visitation grant funds if a State is to receive the full amount of the allotment under subsection (c).

OPTION 2: (WRA language)

(b) Payments to States -- (1) Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment under subsection (c) for such fiscal year, to be used for payment of 90 percent of expenditures for the purposes specified in subsection (a).

Suggested report language:

The intent is to require at least a 10% State or local match of Federal access and visitation grant funds if a State is to receive the full amount of the allotment under subsection (c).