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[1] READ 1:
CQ's WASHINGTON ALERT
01/30/98

HR3130 Shaw (R-FL) 01/28/98 (797 lines)
Introduced in House

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, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adcpption requirements.

Special typefaces used in this bill version:

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Item Key: 8359

105TH CONGRESS
2D SESSION

H. R. 3130

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, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

IN THE HOUSE OF REPRESENTATIVES

January 28, 1998

Mr. SHAW (for himself and Mr. LEVIN) introduced the following bill;
which was referred to the Committee on Ways and Means

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, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

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

!!SECTION 1. SHORT TITLE!!

This Act may be cited as the "Child Support Performance and Incentive Act of 1998".

!!SEC. 2. TABLE OF CONTENTS!!

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I--CHILD SUPPORT DATA PROCESSING REQUIREMENTS

Sec. 101. Alternative penalty procedure.

Sec. 102. Authority to waive single Statewide automated data processing and information retrieval system requirement.

TITLE II--CHILD SUPPORT INCENTIVE SYSTEM

Sec. 201. Incentive payments to States.

TITLE III--ADOPTION PROVISIONS

Sec. 301. More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption.

Sec. 302. Technical corrections.

!!TITLE I--CHILD SUPPORT DATA PROCESSING REQUIREMENTS!!

!!SEC. 101. ALTERNATIVE PENALTY PROCEDURE!!

(a) IN GENERAL.--Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

"(4)(A) If--

"(i) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with section 454(24)(A), and that the State has made and is continuing to make a good faith effort to so comply; and

"(ii) the State has submitted to the Secretary a corrective compliance plan that describes how the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

"(B) In this paragraph:

"(i) The term 'penalty amount' means, with respect to a failure of a State to comply with section 454(24)--

"(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs;

"(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

"(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year; or

"(IV) 20 percent of the penalty base, in the case of the 4th or any subsequent such fiscal year.

"(ii) The term 'penalty base' means, with respect to a failure of a State to comply with section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

"(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if--

"(I) by December 31, 1997, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

"(II) the Secretary has provided the certification as a result of a review conducted pursuant to the request; and

"(III) the State has not failed such a review.

"(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year achieves compliance with section 454(24)(A) by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 75 percent of the reduction for the fiscal year.

"(iii) The Secretary shall reduce the amount of any reduction that, in the absence of this clause, would be required to be made under this paragraph by reason of the failure of a State to achieve compliance with section 454(24)(B) during the fiscal year, by an amount equal to 20 percent of the amount of the otherwise required reduction, for each State performance measure described in section 458A(b)(4) with respect to which the applicable percentage under section 458A(b)(6) for the fiscal year is 100 percent, if the Secretary has made the determination described in section 458A(b)(5)(B) with respect to the State for the fiscal year.

"(D) The preceding provisions of this paragraph (except for subparagraph (C)(i)) shall apply, separately and independently, to a failure to comply with section 454(24)(B) in the same manner in which the preceding provisions apply to a failure to comply with section 454(24)(A)."

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.--Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting "(other than section 454(24))" before the semicolon.

!!SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.!!

(a) IN GENERAL.--Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if--

"(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State--

"(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

"(ii) to submit data under section 454(15)(B) that is complete and reliable;

"(iii) to substantially comply with the requirements of this part; and

"(iv) in the case of a request to waive the single statewide system requirement, to--

"(I) meet all functional requirements of sections 454(16) and 454A;

"(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

"(III) ensure that there is only 1 point of contact in the State for all interstate case processing and coordinated, automated intrastate case management;

"(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

"(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

"(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

"(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and

maintaining the system for 5 years, and the Secretary has agreed with the estimates."

(b) PAYMENTS TO STATES.--Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended--

- (1) by striking "and" at the end of subparagraph (B);
- (2) by striking the semicolon at the end of subparagraph (C) and inserting ", and"; and
- (3) by inserting after subparagraph (C) the following:
"(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;"

!!TITLE II--CHILD SUPPORT INCENTIVE SYSTEM!!

!!SEC. 201. INCENTIVE PAYMENTS TO STATES!!

(a) IN GENERAL.--Part D of title IV of the Social Security Act (42 U.S.C. 651-669) is amended by inserting after section 458 the following:

!!"SEC. 458A. INCENTIVE PAYMENTS TO STATES!!

"(a) IN GENERAL.--In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

"(b) AMOUNT OF INCENTIVE PAYMENT.--

"(1) IN GENERAL.--The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

"(2) INCENTIVE PAYMENT POOL.--

"(A) IN GENERAL.--In paragraph (1), the term 'incentive payment pool' means--

- "(i) \$439,000,000 for fiscal year 2000;
- "(ii) \$446,000,000 for fiscal year 2001;
- "(iii) \$468,000,000 for fiscal year 2002;
- "(iv) \$479,000,000 for fiscal year 2003;
- "(v) \$473,000,000 for fiscal year 2004;
- "(vi) \$465,000,000 for fiscal year 2005;
- "(vii) \$478,000,000 for fiscal year 2006;
- "(viii) \$490,000,000 for fiscal year 2007; and
- "(ix) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal

year.

"(B) CPI.--For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) STATE INCENTIVE PAYMENT SHARE.--In paragraph (1), the term 'State incentive payment share' means, with respect to a fiscal year--

"(A) the incentive base amount for the State for the fiscal year; divided by

"(B) the sum of the incentive base amounts for all of the States for the fiscal year.

"(4) INCENTIVE BASE AMOUNT.--In paragraph (3), the term 'incentive base amount' means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

"(A) The paternity establishment performance level.

"(B) The support order performance level.

"(C) The current payment performance level.

"(D) The arrearage payment performance level.

"(E) The cost-effectiveness performance level.

"(5) MAXIMUM INCENTIVE BASE AMOUNT.--

"(A) IN GENERAL.--For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is--

"(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

"(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

"(B) DATA REQUIRED TO BE COMPLETE AND RELIABLE.--

Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

"(C) STATE COLLECTIONS BASE.--For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of--

"(i) 2 times the sum of--

"(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support

obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

"(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

"(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

"(6) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.--

"(A) PATERNITY ESTABLISHMENT.--

"(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.--The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV-D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.--The applicable percentage with respect to a State's paternity establishment performance level is as follows:

"If the paternity establishment performance level is:

At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73

62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

"(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.--

"(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.--The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.--The applicable percentage with respect to a State's support order performance level is as follows:

"If the support order performance level is:

At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80

69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

"(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.--

"(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.--The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.--The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is:

At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96

77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

"(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.--

"(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.--The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received

during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.--The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is:

At least:	But less than:	The applicable percentage is:
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59

48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

"(E) COST-EFFECTIVENESS.--

"(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.--The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.--The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost effectiveness performance level is:

At least:	But less than:	The applicable percentage is:
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

"(c) TREATMENT OF INTERSTATE COLLECTIONS.--In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a

State in carrying out a special project assisted under section 455(e) shall be excluded.

"(d) ADMINISTRATIVE PROVISIONS.--The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

"(e) REGULATIONS.--The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

"(f) REINVESTMENT.--A State to which a payment is made under this section shall expend the full amount of the payment--

"(1) to carry out the State plan approved under this part;

or

"(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for which are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part."

(b) TRANSITION RULE.--Notwithstanding any other provision of law--

(1) for fiscal year 2000, the Secretary shall reduce by 1/3 the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by 2/3 the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by 2/3 the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by 1/3 the amount otherwise payable to a State under section 458A of such Act.

(c) REGULATIONS.--Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

(d) STUDIES.--

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.--

(A) IN GENERAL.--The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO THE CONGRESS.--

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.--Not later than

October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.--Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.--Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.--

(A) IN GENERAL.--The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.--Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

(e) TECHNICAL AMENDMENTS.--

(1) IN GENERAL.--Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended--

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)--

(i) by striking paragraph (1) and inserting the

following:

"(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.--The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State."; and

(ii) in paragraph (2), by striking "(c)" and inserting "(b)".

(2) EFFECTIVE DATE.--The amendments made by this section shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.--

(1) REPEAL.--Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.--

(A) Section 458A of the Social Security Act (42 U.S.C. 658a) is redesignated as section 458.

(B) Subsection (d)(1) of this section is amended by striking "458A" and inserting "458".

(3) EFFECTIVE DATE.--The amendments made by this subsection shall take effect on October 1, 2001.

(g) GENERAL EFFECTIVE DATE.--Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

!!TITLE III--ADOPTION PROVISIONS!!

!!SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.!!

(a) Section 474(d) of the Social Security Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by inserting "or subsection (e) of this section" after "section 471(a)(18)".

(b) Section 474(e) of such Act (42 U.S.C. 674(e)) is amended--

(1) by striking all that precedes paragraph (1) and inserting the following:

"(e) As a condition of receiving funds under this part, a State shall not--";

(2) in paragraph (1), by striking "denied or delayed" and inserting "deny or delay"; and

(3) in paragraph (2), by striking "failed" and inserting "fail".

(c) RETROACTIVITY.--The amendments made by this section shall take effect as if included in section 202(b) of the Adoption and Safe Families Act of 1997.

!!SEC. 302. TECHNICAL CORRECTIONS.!!

Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended--

(1) by striking "November 30, 1997" and inserting "April 30, 1998"; and

(2) by striking "March 1, 1998" and inserting "July 1, 1998".

2/20

John M.

1989 - ~~1989~~

- Wayne Stanton FHIS Child Support
Dir

- MOU

Waiver that expired 1995

1115 waiver

LA to create own automated system

LA - Incentives bill treats them separately

Why can't we treat them separately

for computer systems

→ certifiable, but doesn't have
ability to communicate
w/ other states

CA wants

state penalty to be
reduced with benefits
to CA

Elose Anderson supports

A second protest came from Snake River potato growers in a cooperative owned by 30 Idaho potato growers who had negotiated to buy a potato-processing plant. They said they would have to pay more for such a facility as a result of Clinton's veto of a law that would have provided tax breaks to processors who sell plants to farmer's cooperatives.

NOAA accurate with its predictions on El Nino By John Stamper Knight Ridder Newspaper (KRT)

WASHINGTON Scientists expected El Nino's impact on American weather to be fierce this winter, but the intensity of its effects surprised them, and official forecasters predicted Thursday more tough weather is ahead.

That means more storms for the already battered California coast, cooler temperatures in the South, and early spring roses in the Northeast, the National Oceanic and Atmospheric Administration experts said. They said the abnormal weather may last until warm weather arrives far longer than had been expected.

There is one big El Nino positive, federal officials said. The warm weather is likely to mean a 10 percent reduction in the nation's heating bill, saving hundreds of millions for consumers across the country.

NOAA says this El Nino may be the biggest of the century. It is slightly stronger than one during the winter of 1982-83, which caused \$2.5 billion in weather-related damages in America and \$10 billion worldwide.

El Nino is still going strong and will for two more months, Commerce Secretary William Daley said during a press conference Thursday. The severe weather in California and the Southeast United States unfortunately will continue.

Forecasters are expecting temperatures to be 10 percent to 20 percent above normal for much of the West and North, from California to Michigan. At the same time, a belt of states from Texas to North Carolina can expect temperatures to be 10 to 30 percent below normal.

Much of the Southwest and Florida are expected to get 20 to 30 percent more rain than usual, while the Northeast, particularly Ohio, and Indiana, and the Pacific Northwest will be drier than usual.

El Nino, which means "the child" in Spanish, reflecting its frequent occurrence during the Christmas season, is an abnormal warming of the ocean temperatures across the eastern tropical Pacific that causes changes in weather patterns around the globe.

An El Nino usually causes more precipitation in South American

going to happen," he said.

Families are upset at inability of states to track deadbeat parents By Tony Pugh Knight Ridder Newspapers (KRT)

WASHINGTON Since her divorce nine years ago, Kelly Haas has tried to spend every dollar wisely. With three children, and her ex-husband \$20,000 behind in child-support payments, Haas' \$441 monthly welfare check and \$300 in food stamps don't go very far.

The food stamps are gone way before the last week of the month," said Haas, 34, of Toledo, Ohio. "Sometimes we have to go two weeks trying to make ends meet. It's hard."

Millions of parents nationwide can't get their former spouses to pay their court-ordered child support. And some states aren't meeting a federal law that would establish a nationwide computer system to help find these deadbeat parents.

This angers Haas and other welfare recipients, who argue that while the law holds them to a timetable to get off public assistance, it excuses some of the states that could help them do so.

The 1996 federal welfare reform law imposed severe financial penalties on states that didn't install computers by last Oct. 1 to track deadbeat parents. When Ohio and 13 other states missed that deadline, they were supposed to lose hundreds of millions of dollars in federal welfare and child-support funding. But they didn't, and a bill pending in Congress would let them off the hook this year by preserving their welfare funds and all but 4 percent of their child-support money.

Supporters of the bill say the original sanctions are too severe and would hurt current collection efforts and jeopardize help for needy families.

But critics say the softer penalties offer little incentive for states to tackle the issue quickly, and are a slap in the face for parents like Haas.

"They should be fully penalized," Haas said of the delinquent states. "They act like they have all the time in the world. They're not thinking about the person who's waiting for that support to help pay their rent, their utilities and to buy food. We don't have a lot of time. We need the money now."

Geraldine Jensen, president of the Association for Children for Enforcement of Support, a national child-support advocacy group in Toledo, said the proposal shows that "Congress has truly forgotten

Call Geraldine Jensen

the people it is here to serve and protect."

"A mother on welfare has five years (under federal law) to meet the deadline for achieving self-sufficiency or she loses all her federal funding. She gets no exceptions," Jensen said. "Why should state government not face the loss of federal funding when low-income mothers must?"

Jensen and others say the inability of states to track and prosecute child-support scofflaws has kept many families in poverty. In 1996, payments were made on only 35 percent, or 4 million, of the nation's 11 million child-support orders, according to preliminary federal figures compiled by the Center for Law and Social Policy, a non-profit policy research group in Washington.

Of the \$16.7 billion in support payments due in 1996, only about half, or \$8.7 billion, was paid. And of the \$39.6 billion in overdue support payments in 1996, only \$3 billion, or 7.5 percent, was paid.

A national computer network is expected to increase payments by using motor vehicle, court and other records to track deadbeat parents across state and county lines. More than 30 percent of child-support cases involve parents in more than one state, according to the policy center.

The network also could monitor efforts to establish paternity and compliance with child-support orders. Court officials could use the information to decide whether to withhold wages or income tax refunds from deadbeat parents.

A 1988 law gave states until 1995 to install the systems. But when only Montana complied, the deadline was extended to Oct. 1, 1997, under the welfare reform law.

So far, 21 states have systems that meet federal guidelines, while 15 more have applied for approval. The states with incomplete systems including California, Illinois, Indiana, Michigan, Ohio and Pennsylvania stand to lose 4 percent of their federal child-support funding under the proposed legislation. The penalty would increase each year, reaching 20 percent in 2001. But these sanctions are nowhere near what they would have been under the current law, critics observe.

For instance, California, which would have lost about \$350 million in child-support funding this year, would only lose about \$14 million under the proposal, according to estimates from the Center on Budget and Policy Priorities, a policy research group here. Michigan's \$112 million funding loss would be cut to \$4.5 million. Pennsylvania's loss would go from about \$100 million to \$4 million and Ohio's from \$127 million to \$5.1 million.

The bill enjoys bipartisan support in Congress and backing from the White House. Rep. E. Clay Shaw, R-Fla., said the proposal is a much more sensible alternative than the current sanctions, which he described as a "nuclear punishment."

"Obviously, that's not an equitable penalty," Shaw said of the wholesale slashing of welfare and child-support funding to states.

But child-support advocates say the proposed penalties need to be much stiffer to compel states to address the matter swiftly.

State officials say they have tried to comply, but technical and logistical problems, contract squabbles and the politics of getting numerous counties to use the same system have made the task more time-consuming and complicated than expected.

In Ohio, where about 40 counties have different computer systems to keep track of their cases, software must be developed for each county to transfer its information to the new statewide system. The goal for that is October, said Greg DePorter, a spokesman for the Ohio Department of Human Services.

Michigan officials want to use one system for their 64 smaller counties while allowing larger counties to use their current computer network. That arrangement wouldn't meet the exact letter of the law, and officials are negotiating a compromise.

"States are trapped trying to balance the federal regulations, state statutes and individual needs of varying sized counties," said Wallace Dutkowski, child support director for Michigan's Family Independence Agency.

Caught in the middle are parents like Haas, who wants to go to school to become a dental assistant. But welfare rules require that she find a job. Her ex-husband was recently arrested in North Carolina and charged with a felony count of failing to pay child support. Since then, Haas has received several support checks, but isn't optimistic about getting all the money she's owed.

Another parent, Tiffany Boughton of Ann Arbor, Mich., said her ex-husband is more than \$10,000 behind in payments for their 9-year-old son, Justin. When state efforts to find him proved fruitless, Boughton's mother, Karen, located her daughter's ex-husband through the American Kennel Association, where he had his dog registered.

He's now in a mental hospital in Rhode Island and unable to make

payments, Karen Boughton said. And even though his new wife sent support payments for the last few months, Karen Boughton says the woman's generosity may not last.

"If they had the computers in place when they were supposed to, he never would have been this far behind in the first place," said Karen Boughton. "It's time they put the children first."

Congress not unified in support of Clinton's plan for Hussein By David Hess Knight Ridder Newspapers (KRT)

WASHINGTON Later this month, Congress is likely to pass a resolution supporting air strikes in Iraq and the eventual ouster of Saddam Hussein.

Lawmakers will boast about taking a tough stance. The White House will cheer the vote of confidence.

But the nonbinding resolution will be mostly an exercise in political self-protection.

Republicans, and some Democrats, want assurances the administration is committed to removing Saddam from power. The president, eager to get a widely supported resolution of approval from Congress before he launches air attacks, may have to accept tough language as the price for support.

Still, the resolution probably won't try to pin the president down to a specified strategy or date to oust Saddam. And that would provide Clinton with political insurance in the event that air strikes fail to dislodge the Iraqi leader.

Sen. Ted Stevens, R-Alaska, perhaps expressed this accommodation best this week when he said: "We're more and more concerned the president's plan cannot achieve the objective (of forcing Saddam into compliance). Yet, I think we'll end up supporting the president and give him the power to do what's necessary, despite our concerns."

A vote on such a resolution, according to Senate Majority Leader Trent Lott, R-Miss., will not come until Congress returns from its 10-day President's Day recess.

The resolution would be nonbinding, lacking the force of law. But its symbolic commitment to "doing something about Saddam," as Sen. John McCain, R-Ariz., put it, is not to be discounted.

For almost two weeks, Senate Republicans and Democrats have been quarreling over the wording of the resolution. Should it be open-ended, giving the president wide latitude to take "necessary and appropriate" steps to punish Iraq? Should it be restrictive and require close congressional oversight? What happens if it doesn't work? A favorite phrase has been, "What's the end game?"

Many members of Congress, frustrated by the Iraqi leader's chronic defiance, say a policy of merely containing Saddam just won't work.

"We should adopt a strategy to end Saddam Hussein's reign of terror," Lott said Thursday. "Our model should be the 'Reagan Doctrine' (of) rollback, not the 'Truman Doctrine' (of) containment."

"Nothing short of ejecting Saddam is going to do it," said Sen. Bob Smith, R-N.H. "The end game for me is that he leaves power, one way or the other."

Some members, such as Sen. Connie Mack, R-Fla., believe the president already has the power, under the 1991 Persian Gulf act that legitimized the allied assault against Iraq, to conduct whatever military operations he deems necessary against Saddam. "I don't think we need a resolution, just let the president do what has to be done," Mack said.

Others, such as Sen. Paul Wellstone, D-Minn., remain skeptical about granting Clinton an open-ended endorsement. "I think we need to keep Congress closely involved in this," he said. "I don't want to see things get out of hand."

Others back the idea of air strikes and say they'll vote for a resolution, even though they don't think it'll come to much.

"I think we should use a significant amount of air power, take out a significant amount of their capacity to manufacture and deliver weapons of mass destruction and to put the fear of Allah in his arm by blowing away some of his elite guard," said Sen. Joseph Biden, D-Del. "What that will guarantee, I don't know maybe nothing. But might be less of a downside for our naked self-interest than if we do nothing."

Repeated briefings by Secretary of State Madeleine Albright, Defense Secretary William Cohen, National Security Adviser Sam Berger and Joint Chiefs Chairman Gen. Harry Shelton have failed to dispel the doubts about the administration's objectives.

But no one in Congress is prepared to suggest openly what some believe is the only certain way of ousting Saddam: mounting a Gulf War-sized offensive to defeat the Iraqi army and capture Hussein, then occupying the country until it is capable of self-government.

HR-45: Child Support Information Systems and Incentive Payments

Summary of NGA Resolution

This resolution recommends that the current penalty for failure to put in place statewide child support computer systems -- the withholding of all federal child support funds -- should be replaced with a more reasonable penalty structure that would allow HHS to impose limited or graduated penalties. The resolution also calls for a moratorium on penalties until a new penalty structure is devised and for flexibility in how a "statewide system" is defined, so that states could link local computer systems into one "statewide" system.

Administration Views of NGA Resolution

We support the governors' call for a new penalty structure that does not withhold all federal child support funds from states without statewide computer systems. We have worked on a bipartisan basis with Congressmen Clay Shaw, Sandy Levin, and others to devise such legislation. The Shaw-Levin bill, which HHS called "tough but fair" in recent testimony, calls for a 4 percent penalty in the first year a state misses the deadline, with an automatic increase to an 8, 12, and 20 percent penalty in the following years.

Because we believe it is critical that every state puts in place a statewide computer system to track deadbeat parents and make them pay the child support they owe, we will insist on legislation that provides clear financial incentives for states to move quickly. Thus, unlike the states, the Administration wants these penalties to be imposed swiftly and automatically, rather than at the Secretary's discretion. We have opposed state proposals, though not outlined in this resolution, for lower penalties (i.e., 2, 4, 6 percent) and we oppose the state's call for a moratorium on penalties until the new penalty structure is devised.

And finally, we have expressed concerns with proposals that would allow states to apply for a waiver to link local computer systems into a "statewide" system. At our insistence, the Shaw-Levin bill would allow such waivers only in circumstances when such linked systems were as functional and cost-effective as statewide systems. Our concern is that some states may use precious time and resources to try, unsuccessfully, to demonstrate that they could develop an approvable linked system, rather than move forward on a single statewide system.



FAX Transmitted Memorandum

<p>TO: CYNTHIA RICE SPECIAL ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY</p>	<p>FROM: David Gray Ross Commissioner</p> <p>Federal Office of Child Support Enforcement Administration for Children & Families Dept. of Health & Human Services 370 L'Enfant Promenade, S. W. Washington, DC 20447 FAX Phone: 202-401-3450 Office Phone: 202-401-9370</p>
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Date/Time: FEB 13 1998

SUBJECT: NGA

Number of Pages including this page: 2

COMMENTS:

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unsure of the meaning of the resolution as it relates to: "all programs". The key to a successful collection and distribution program remains with centralization. Nothing in federal law precludes a state from sharing their penalties with their localities. In light of the above, we oppose a moratorium.

HHS Position:

Concerning incentives, the Department supported the language of H.B. 2487 (1997) which allows, with the approval of the Secretary, State flexibility in the use of the funds as long as the expenditure may benefit the child support program.

HR-45 CHILD SUPPORT INFORMATION SYSTEMS AND INCENTIVE PAYMENTS

45.1 CHILD SUPPORT INFORMATION SYSTEMS

45.1.1 **PREAMBLE.** THE NATION'S GOVERNORS FIRMLY BELIEVE THAT AN EFFECTIVE CHILD SUPPORT ENFORCEMENT PROGRAM IS CRITICAL TO THE SUCCESS OF WELFARE REFORM AND TO MOVING FAMILIES TOWARD SELF-SUFFICIENCY. THE GOVERNORS SUPPORT THE GOAL OF AUTOMATED CHILD SUPPORT SYSTEMS TO IMPROVE PROGRAM EFFICIENCY AND EFFECTIVENESS IN LOCATING NONCUSTODIAL PARENTS AND TRACKING CHILD SUPPORT CASES. AUTOMATED CHILD SUPPORT INFORMATION SYSTEMS ARE PARTICULARLY IMPORTANT FOR TRACKING THE ESTIMATED ONE THIRD OF THE CHILD SUPPORT CASELOAD THAT IS INTERSTATE. THEREFORE, ALL STATES MUST OPERATE TECHNOLOGICALLY ADVANCED INFORMATION SYSTEMS THAT ARE EFFECTIVE IN INTERSTATE ENFORCEMENT.

IN ORDER FOR THIS TO OCCUR, FEDERAL LAWS AND REGULATIONS MUST ALLOW EACH STATE TO DESIGN SYSTEMS THAT ARE APPROPRIATE FOR THAT STATE AND ITS STRUCTURE. ADDITIONALLY, THE FOCUS MUST BE ON DESIRED PROGRAM OUTCOMES RATHER THAN PRESCRIPTIVE SYSTEM SPECIFICATIONS.

45.1.2 **NEW REQUIREMENTS UNDER PRWORA.** UNDER P.L. 104-193, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT (PRWORA), STATES WILL CONTINUE TO FACE SYSTEM CHALLENGES. STATES MUST DEVELOP CHILD SUPPORT SYSTEMS TO IMPLEMENT A NUMBER OF NEW REQUIREMENTS, SUCH AS NEW HIRE REPORTING, A CENTRALIZED CASE REGISTRY AND CENTRALIZED PAYMENT PROCESSING. UNLIKE THE STATEWIDE AUTOMATED SYSTEM REQUIREMENT, THE FEDERAL SHARE IS NOT OPEN-ENDED, BUT IS CAPPED AT \$400 MILLION. LESSONS LEARNED FROM EFFORTS TO IMPLEMENT THE FAMILY SUPPORT ACT REQUIREMENTS HAVE CONSIDERABLE APPLICABILITY TO THESE NEW SYSTEMS CHANGES AND DEVELOPMENTS.

45.1.3 **STATEWIDE CHILD SUPPORT INFORMATION SYSTEMS.** THE FAMILY SUPPORT ACT OF 1988 REQUIRED STATES TO IMPLEMENT STATEWIDE AUTOMATED CHILD SUPPORT SYSTEMS. BECAUSE OF THE MANY COMPLEXITIES OF THE REQUIREMENT AND DESPITE GOOD FAITH EFFORTS, MANY STATES WERE UNABLE TO MEET THE OCTOBER 1, 1997, DEADLINE FOR CERTIFICATION OF THEIR SYSTEMS.

THE COMPLEXITY OF CREATING LARGE STATEWIDE AUTOMATED CHILD SUPPORT SYSTEMS WAS NOT WELL UNDERSTOOD WHEN THE FAMILY SUPPORT ACT WAS ENACTED. FOR EXAMPLE, MANY HOURS HAVE BEEN SPENT WORKING WITH VARIOUS

BRANCHES AND LEVELS OF GOVERNMENT TO FOSTER STATEWIDE PARTNERSHIPS AND SUPPORT FOR ONE STATEWIDE SYSTEM FOR CHILD SUPPORT INFORMATION SYSTEMS. ADDITIONALLY, IN MANY STATES, PRIVATE CONTRACTORS FAILED TO COMPLETE CONTRACTED WORK ON TIME OR TO SPECIFICATIONS.

STATES' EFFORTS HAVE BEEN HAMPERED BY NUMEROUS FACTORS, BUT IN PARTICULAR BY A FOCUS ON A PRESCRIPTIVE PROCESS RATHER THAN ON OBTAINING CONSISTENT RESULTS FOR MAXIMIZING CHILD SUPPORT COLLECTIONS. GIVEN TODAY'S TECHNOLOGY, THERE ARE MANY WAYS TO REACH THE REQUIRED PROGRAMMATIC RESULTS. FACTORS AFFECTING STATES' EFFORTS INCLUDE THE FOLLOWING.

- THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) INTERPRETS "STATEWIDE SYSTEMS" TO MEAN THAT ALL PARTICIPANTS MUST USE A SINGLE SOFTWARE AND HARDWARE CONFIGURATION. THIS MEANS THAT STATES THAT RELY EXTENSIVELY ON LOCAL PROGRAMS FOR CHILD SUPPORT ENFORCEMENT HAVE HAD TO REDESIGN OR DEVELOP NEW SYSTEMS AT MULTIPLE SITES.
- THE CERTIFIABLE SYSTEM SPECIFICATIONS ARE OVERLY PRESCRIPTIVE.
- A TRANSFER REQUIREMENT THAT DIRECTED STATES TO ACQUIRE SYSTEMS BY LOCATING AND USING FEDERALLY APPROVED SYSTEMS ALREADY OPERATING IN OTHER STATES FAILED TO RECOGNIZE SIGNIFICANT DIFFERENCES AMONG STATES OR MAKE USE OF THE MOST RECENT TECHNOLOGY.
- WITH THE ADVENT OF PRWORA REQUIREMENTS, STATES THAT ARE IN THE PROCESS OF COMPLETING THE FAMILY SUPPORT ACT REQUIREMENTS LITERALLY WILL HAVE TO COMPLETE REQUIREMENTS AND THEN MODIFY THEM TO MEET SOME OF THE NEW PRWORA REQUIREMENTS. THIS IS WASTEFUL OF CRITICAL RESOURCES FROM BOTH A STAFF AND FUNDING PERSPECTIVE.
- THE DATES ESTABLISHED FOR COMPLETION OF THE PRWORA SYSTEMS REQUIREMENTS ARE SERIOUSLY IN JEOPARDY AS ALL CHILD SUPPORT SYSTEMS ARE ALSO HAVING TO DEAL WITH YEAR 2000 MODIFICATIONS.

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DESPITE THE DIFFICULTIES STATES HAVE FACED IN DEVELOPING AUTOMATED SYSTEMS, STATES HAVE MADE PROGRESS IN CHILD SUPPORT. EXAMPLES INCLUDE THE FOLLOWING.

- IN 1992 ANNUAL CHILD SUPPORT COLLECTIONS TOTALED \$6 BILLION. IN 1996 ANNUAL COLLECTIONS EXCEEDED \$12 BILLION—A 100 PERCENT INCREASE.
- IN 1992 PATERNITY ESTABLISHMENTS TOTALED 512,000. BY 1996 PATERNITY ESTABLISHMENTS HAD DOUBLED TO MORE THAN 1 MILLION.

- IN 1992, 2.8 MILLION FAMILIES RECEIVED CHILD SUPPORT COLLECTIONS. IN 1996, 4 MILLION FAMILIES RECEIVED CHILD SUPPORT COLLECTIONS—A 43 PERCENT INCREASE.

45.1.4 **PENALTY FOR NONCOMPLIANCE.** IN LIGHT OF THE CIRCUMSTANCES, THE GOVERNORS BELIEVE THAT THE PENALTY FOR FAILING TO COMPLY WITH THE STATEWIDE AUTOMATED CHILD SUPPORT SYSTEM REQUIREMENT IS EXCESSIVE AND UNWARRANTED. A STATE COULD LOSE ALL OF ITS FEDERAL CHILD SUPPORT DOLLARS AND ITS TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT FUNDS FOR FAILING TO MEET THE DEADLINE. ADDITIONALLY, CURRENT LAW DOES NOT PROVIDE ANY AUTHORITY FOR STATES TO ENTER INTO A CORRECTIVE ACTION PLAN TO COMPLY WITH THE REQUIREMENT. IMPOSITION OF THE PENALTY WOULD RESULT IN UNPRECEDENTED DISRUPTIONS IN SERVICES TO POOR FAMILIES AND IN THE CONTINUED DEVELOPMENT OF CHILD SUPPORT SYSTEMS. THE PENALTY COULD MAKE IT VIRTUALLY IMPOSSIBLE TO CONTINUE PROGRESSING TOWARD 100 PERCENT COMPLIANCE WITH FEDERAL REQUIREMENTS.

45.1.5 **RECOMMENDATIONS.** THE NATION'S GOVERNORS LOOK FORWARD TO WORKING WITH CONGRESS AND THE ADMINISTRATION TO DEVELOP A SOLUTION TO GIVE STATES ADEQUATE FLEXIBILITY TO DESIGN THEIR SYSTEMS, TAKE ADVANTAGE OF ADVANCED INFORMATION TECHNOLOGIES, AND MAKE ACCOMMODATIONS FOR LOCALLY BASED SYSTEMS. SPECIFIC RECOMMENDATIONS INCLUDE THE FOLLOWING.

- ESTABLISH A MORE REASONABLE PENALTY STRUCTURE THAT WOULD ALLOW THE SECRETARY OF HHS TO IMPOSE LIMITED OR GRADUATED PENALTIES WHEN STATES FAIL TO MEET SYSTEM DEADLINES, INCLUDING A REDUCTION IN THE PENALTY FOR STATES THAT MEET THE REQUIREMENTS BEFORE THE END OF A FISCAL YEAR, WITH ADDITIONAL INCENTIVES TO ENCOURAGE STATES TO IMPLEMENT THEIR CHANGES EARLIER IN THE FISCAL YEAR. FURTHER, PENALTIES SHOULD ONLY APPLY UP TO THE DATE THAT A STATE MEETS THE REQUIREMENTS AND SHOULD NOT APPLY TO ANY DELAYS BY HHS IN GRANTING CERTIFICATION.
- REQUIRE A PENALIZED STATE TO REINVEST ANY PENALTY AMOUNT IN THE CHILD SUPPORT PROGRAM, WITHOUT SUPPLANTING, TO BRING THE STATE INTO COMPLIANCE.
- GIVE STATES THE AUTHORITY TO ENTER INTO A CORRECTIVE ACTION PLAN THAT WOULD ALLOW STATES GREATER FLEXIBILITY TO MEET THE PROGRAM OUTCOMES.

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oppose

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oppose

- REVISE THE CERTIFICATION REQUIREMENTS TO ALLOW FLEXIBILITY IN HOW A "STATEWIDE SYSTEM" IS DEFINED, FOSTERING THE USE OF ADVANCED TECHNOLOGIES. THIS WOULD ALLOW STATES TO ESTABLISH STATEWIDE DATA WAREHOUSES AS REPOSITORIES FOR DATA AND ALLOW STATES TO LINK TO LOCAL SYSTEMS. COMMON DATA ELEMENTS, ACCOUNTING STRUCTURES, AND LOGIC FOR SPECIFIC CENTRALIZED FUNCTIONS COULD STILL BE ACCOMPLISHED AND MEET THE DESIRED RESULTS FOR CERTIFICATION. THE STATE WOULD RETAIN RESPONSIBILITY FOR POLICY COMPLIANCE STATEWIDE, SYSTEMS COMPLIANCE, AND FUTURE POLICY IMPLEMENTATION AND WOULD MAINTAIN ONE POINT OF CONTACT FOR BOTH THE FEDERAL AND STATE GOVERNMENTS.
- IMPLEMENT A COMPREHENSIVE RE-EXAMINATION OF ALL DATA COLLECTION AND REPORTING REQUIREMENTS ACROSS PROGRAMS TO ASSESS THE SUFFICIENCY OF CURRENT RESOURCES.
- CLARIFY THAT STATES HAVE AUTHORITY TO ELECTRONICALLY TRANSFER EMPLOYERS' WAGE WITHHOLDING PAYMENTS TO A CENTRAL LOCATION TO CONTINUE LOCALIZED SYSTEMS OF COLLECTION AND DISBURSEMENT.
- GIVE STATES THE AUTHORITY TO SHARE PENALTIES WITH CHILD SUPPORT ENFORCEMENT AND COLLECTION AGENTS IN PROPORTION TO COMPLIANCE STATUS.
- IMPOSE A MORATORIUM ON PENALTIES UNTIL AGREEMENT IS REACHED ON THE ABOVE ISSUES.

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45.2 **CHILD SUPPORT INCENTIVE PAYMENTS**

THE ENACTMENT OF THE PRWORA REQUIRED HHS TO REPORT TO CONGRESS ON RECOMMENDATIONS FOR REVISING THE CURRENT CHILD SUPPORT INCENTIVE PAYMENTS SYSTEM. THE NATION'S GOVERNORS SUPPORT DEVELOPING AN INCENTIVE SYSTEM THAT MAINTAINS FLEXIBILITY IN THE USE OF CHILD SUPPORT INCENTIVE FUNDS. AS WITH THE CURRENT SYSTEM, STATES SHOULD BE ABLE TO USE THESE FUNDS FOR ANY PURPOSE THEY DEEM APPROPRIATE.

Time limited (effective Winter Meeting 1998-Winter Meeting 2000).

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Federal News Service JANUARY 29, 1998, THURSDAY

**PREPARED STATEMENT BY JOHN MONAHAN
PRINCIPAL DEPUTY ASSISTANT SECRETARY
ADMINISTRATION FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES**

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.

Please contact Larry McSwain if you would like to receive the WR Daily Report by e-mail or if you have questions about articles found in this publication. (lmcswain@acf.dhhs.gov (e-mail) or 202-401-1230(voice)).

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 than 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 child 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.

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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.

END

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**PREPARED STATEMENT OF LESLIE L. FRYE
CHIEF, OFFICE OF CHILD SUPPORT
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
SUBJECT - HEARING ON CHILD SUPPORT AUTOMATION ISSUES**

Mr. Chairman and distinguished members of the Subcommittee: Good morning and thank you for the opportunity to address a topic of urgent concern to states, accountability for development and implementation of automation projects to conduct the business of the Child Support Enforcement Program. In addition, I want to support the allowance of federal funding for alternative system configurations, which is currently restricted by federal regulation and comment on the restructuring of the child support incentives system, which will also be a part of this legislation.

Penalties for Missed Automation Deadlines

As everyone here knows, a number of states face enormous penalties under current law for failing to meet the automation requirements of the Family Support Act and other states may face the same penalties in the future for failing to meet the upcoming deadlines for additional development created in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. I appreciate the concern shown by many members of Congress, the Administration and the advocate community who realized that the penalties in current law would eliminate essential services to families who need temporary help to achieve the vision of the Personal Responsibility and Work Opportunity Reconciliation Act, and who are now willing to discuss changing those penalties. The question we are all struggling with is finding the appropriate punishment for the crime of failing to meet the statutory deadlines which does not also cause irreparable damage to states' programs and their ability to ever meet the automation mandates.

It is widely accepted and well-documented that the causes for delay or failure of the massive Family Support Act systems are many and that many entities, including states, federal oversight agencies and private sector vendors contributed to the widespread noncompliance with the original deadline of October 1, 1995 and the extended deadline of October 1, 1997. As we look forward to the next round of systems development required by the Personal Responsibility and Work Opportunity Reconciliation Act, any difficulties meeting those deadlines will likely result from similar factors and players. We read daily that the Year 2000 crisis is gobbling up scarce programming resources and driving up the price of software expertise. States are still waiting for direction from the federal Office of Child Support Enforcement before they can proceed with some of the key changes. The funds that Congress appropriated to pay for these changes have still not been allocated to states. And the hoped-for reform in procurement and approval processes has yet to materialize.

Yet, it seems to be a fait accompli that penalties will ensue for those states who still are struggling to meet the Family Support Act expectations and who are unable to meet the new requirements in accordance with the statutory time lines. Why should states alone shoulder the blame, through the imposition of penalties, when no other contributor to the problems of the past and likely problems of the future must do so? Why is accountability a virtue expected uniquely of states? There is also a view that the penalties must be high, certainly higher than what states would propose, in order to bring about the desired result—statewide automation of the Child Support Enforcement Program. If the situation was factually analogous to what happens in the world of environmental concerns, there might be some validity to this approach. In pressing industry to install filters on smokestacks, for example, the penalties have to exceed the cost of the installation for them to make economic sense. However, the facts behind the failure to meet systems deadlines are much more complicated, and the costs already exist—in the form of lost collections as well as higher prices for information technology resources. I cannot help but ask, what is the policy position behind bigger is better with regard to penalties, given the damage those penalties will wreak on state child support programs. As a practical matter I am certainly supportive of the proposal of the Subcommittee to create a more realistic penalty structure than the one currently in statute. I also support the concepts of increasing the penalty amounts year to year, and forgiving a substantial portion of the penalty when states come into compliance. I

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would ask the Subcommittee to consider three changes to the proposal, however, in the interests of finding a more appropriate balance between the punishment of the crime and the delivery of essential services to the public. My recommendations are as follows:

1. "Forgiveness" of the annual penalty would be available to states which are continuing development of their systems under a structured corrective action plan and have met the milestones of that plan for the year. For example, if California's plan states that 25 percent of its caseload will be on the automated system by the end of the first year and meets that milestone, the 75 percent forgiveness would be applied for that year. In any year in which the state fails to meet its milestones, the full penalty would be applied. In such a results based process, these measurable milestones can be thought of as "deliverables" which the state must produce. The model is similar to the one now recommended for use in information technology procurement, where the deliverables represent steps along the path to completion. Rather than waiting until the end of the process to see if total success was achieved, progress would be more closely monitored along the way, with incremental progress being significantly incented.

The Department of Health and Human Services (DHHS) has had a great deal of experience monitoring states' corrective action plans as they relate to audit findings and would be able to determine if specific measurable milestones have been met. Between 1984 and 1994, the Office of Child Support Enforcement (OCSE) conducted 154 state program audits and required corrective action plans of states 114 times. For nine states during that period, OCSE's follow up review found that the problems were not corrected and a sanction was assessed. Seven of those states also failed OCSE's second follow up review and were assessed a larger penalty. Only one state failed the third follow up review. This process can work. In fact, the corrective action process is widely used by the DHHS in its oversight of a large number of human service programs, as well as by the United States Department of Agriculture in the administration of the Food Stamp Program.

2. The penalty structure overall should be reduced to a 2 percent initial penalty, with penalties increasing annually at 2 percentage point increments.

The objective of a financial sanction is to create pressure and motivation to complete projects as quickly as possible. There must be a balance between this goal and the risk of damaging the program to the point that it cannot provide services. The penalty structure likely to be in the Subcommittee's bipartisan bill, as I understand it, would cost California about \$12 million in the current year, which equates to about \$33,000, or one child support case worker, per day. In subsequent years, the resources would be diminished even more. As I stated before, many players (state, federal, local and private sector entities) contributed to the failure of states to complete their projects on time, yet only states must pay the penalties.

We believe that a lower overall structure meets the goal of underscoring the importance of rapid project completion without making it impossible for states to succeed.

3. States should be allowed to choose whether to let the federal government keep the penalty payment, or to reinvest it in their Child Support Enforcement Programs. The reason behind automation is to improve program operations. In some states, inadequate resource allocation has led to poor performance. In a penalty situation, it would make sense to allow the state to invest its general funds in the amount of the penalty in the program, rather than to write a check to the federal government, depriving the Child Support Program of these resources. **Funding for Alternative System Configurations**

We also are strongly in support of the allowance of federal financial participation in the costs of an "alternative system configuration" which is now permitted as a different way to meet the program mandates under the statute. Congress anticipated that some states would not meet the program functionality required by the Family Support Act through a "single statewide system" and allowed the Secretary of DHHS to approve different technologies through a waiver process. In regulating this provision of the statute, DHHS decided to discourage states from seeking such waivers by limiting the availability of federal matching funds to a "base system" and limited changes to other systems which would interface with the base system. DHHS was successful in its efforts to limit use of the waiver—only a handful of states requested approval of an alternative system configuration and even fewer implemented them. Because of its experience with single statewide system development efforts which were not successful, California now believes that an alternative system configuration may be the best way in which it can meet the programmatic functionality requirements of the Child Support Enforcement Program. We believe that advances in technology may allow us to implement a "virtual statewide system" which would store all essential data elements in a central site, accessible to all program entities within and outside of the state under an alternative system configuration. We would incorporate the mandates of the Personal Responsibility and Work Opportunity Reconciliation Act, which drive toward increased centralization, particularly of financial information, as we construct a statewide system that closely interfaces the Los Angeles County system and several others. Our bottom line would be a total system that can be implemented more quickly and at less cost than a single statewide system, while providing seamless and uniform service delivery.

California recommends a statutory change to 42 U.S.C 652(d)(3) to allow federal financial participation for alternative system configurations approved by the Secretary at the regular matching rate that would be available for single statewide systems. Such a

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change would allow California to automate its Child Support Enforcement Program statewide and become certified as meeting state plan requirements.

Child Support Incentive System

With regard to the restructuring of child support incentives, which is also part of the legislation before the committee, we wholeheartedly support the proposal to broaden the criteria on which states earn incentives for child support collections. We believe that the state and federal members of the work group that developed the proposal clearly understood the importance of a balanced incentive program which recognizes that the current single criterion of cost effectiveness does not capture the full range of activity by which program success can be measured. The five criteria, paternitys established, support orders established, current support collected, arrears payments, and cost effectiveness, represent widely recognized performance outcomes for the Child Support Enforcement Program. We also endorse the proposal to group collections on behalf of families who exit the welfare rolls with collections for families currently receiving public assistance, for incentive purposes. The current system caps the incentives a state can earn on collections for families who have left (or never received) public assistance at 115 percent of incentives earned on collections for welfare families. As families leave welfare, fulfilling the policy goal of welfare reform, the amount of incentives a state can earn also declines.

The proposal offers an excellent mechanism for addressing this "disincentive" for success in helping families leave welfare. This is a very positive recommendation which supports the policy goals of the PRWORA. It also is in line with policy positions taken by the American Public Welfare Association and the National Council of State Child Support Enforcement Administrators in 1994, when the public debate on welfare reform was shaping up.

It is estimated that nationwide about 40 percent of the collections now categorized as "non-welfare" collections are actually made on behalf of families who formerly received public assistance. Grouping these collections with collections for current welfare recipients would solve the problem many states now face, where incentives are declining because of the success of their welfare reform efforts to transition families to self sufficiency. We are concerned about the phase-in period. The proposal significantly changes the way child support program performance is evaluated and rewarded, and therefore how programs will be structured to maximize funding. There is potential for dramatic swings in funding, with some states realizing large increases and others losing substantial amounts in the space of a single year. It is not clear that either scenario will lead to good program outcomes across the nation. We would recommend that the effects of the transition to the new system be mitigated, such as by limiting the year-to-year changes during the first five years of its implementation, so that the Secretary can monitor the impact that the new system is having on the program's goals. Further, we would request that the study of the effects of the new system not be held off until after implementation is complete, but rather be ongoing. In particular, we would urge that program performance be evaluated separately for the never welfare and current and former welfare segments of the population to ensure that services are not deteriorating in one, in favor of the other.

The incentive proposal will require different reporting of data and, in some instances, a redefinition of data elements we now report. These changes, which have been released to states for comment, will have to be incorporated in states' reporting systems well in advance of the implementation date. Whether all of this can be done in time to begin reporting in the new way by October 1, 1998 is questionable. Absent sound data reported uniformly from all states, the new incentive system will lack credibility. Whether a state has a certified child support automated system is not the issue; it is whether the state can modify its reporting mechanisms to provide accurate data that will be required to support the incentive model.

Conclusion

The Child Support Enforcement Program has undergone, and is undergoing, significant change as it moves farther into the information age and plays a greater role in helping families achieve and maintain self sufficiency. All of the changes have contributed to improved program performance, although not always at the same rate from state to state. The Family Support Act and, to an even greater extent, the Personal Responsibility and Work Opportunity Reconciliation Act, have mandated the innovations of some states on all states in an attempt to ensure greater uniformity of services nationwide. While this is a laudable goal, there are significant demographic differences among states and one size does not fit all. In evaluating states' performance, in mandating computer projects and in motivating states to meet deadlines I would hope that Congress will not assume a cookie cutter approach. I am hopeful that opportunities to discuss the issues, such as this hearing today, will help all of us reach the policy that is best for the program—and for the nation's children—in the long run.

Thank you again for the opportunity to discuss these important issues. I would be happy to answer any questions you have.

END

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PREPARED STATEMENT OF MR. WALLACE N. DUTKOWSKI, DIRECTOR, OFFICE OF CHILD SUPPORT, REPRESENTING THE STATE OF MICHIGAN FAMILY INDEPENDENCE AGENCY BEFORE THE HOUSE WAYS AND MEANS HUMAN RESOURCES SUBCOMMITTEE SUBJECT - THE SHAW-LEVIN "CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998"

INTRODUCTION

The State of Michigan respectfully thanks the subcommittee for the opportunity to provide this written testimony regarding the Shaw-Levin Bill. The State of Michigan would also like to thank the Chairman Clay Shaw, and the members of the Ways and Means Subcommittee who have displayed leadership by introducing this bill. We would also like to thank our Michigan Members of this subcommittee, Rep Dave Camp and Rep Sander Levin for their work on this important bill. Michigan feels this bill will moderate the current severe fiscal penalties faced by states for failure to implement state child support automated systems in the prescriptive way dictated by HHS. This testimony is intended to present Michigan's perspective regarding this important legislation. This testimony will also address key issues regarding the Title IV-D system specifically, and all human services automated systems in general.

TODAY'S ENVIRONMENT Today in Michigan, every child support enforcement office is automated. Forty five (45) enforcement offices (in Michigan these offices are called the Friends of the Court or FOCs) are using the state developed Child Support Enforcement System, or CSES, while nineteen (19) FOCs are using county developed systems. Does Michigan's current system work? In the federal Office of Child Support Enforcement's 20th Annual Report to Congress, the most recent data publicly available, among all states Michigan ranks:

- #1 in total distributed child support collections. (Table 4) - #3 in Public Assistance related child support collections. (Table 5) - #2 in child support collections per dollar expended. (Table 9) - One of only 7 states reporting program savings in Title IV-D. (Table 19) - #2 in collections per worker. (Even though our caseload is nearly twice the national average.) (Table 57) Michigan's child support program accomplished these results in spite of not having a system that meets the federal definition of certification. Could we do better with an improved system? We believe we can and that we will. **ALTERNATE SYSTEMS DESIGNS** Michigan is building an automated system that is constructed on the concept of a results based system. In order to build the system that best meets the state's program needs, we must be allowed to link some existing local systems with the current state developed system. Michigan applauds the Subcommittee's efforts to include this ability with the language contained in the Shaw-Levin Bill. Support of Michigan's ability to select an alternate system design for our CSES development, is critical for the completion of our system. We believe this authority was intended by Congress based on current Title IV-D legislation. The further clarification in this bill that such alternative system designs are acceptable, is greatly appreciated. By utilizing an alternate system strategy, large counties in Michigan will not have to surrender additional functionality already built into their local systems. At the same time Michigan will be able to perform all the mandated functions required of a federally certified system. The alternate system design concept is the key to our ability to build an improved automated system that will meet the original intent of Congress.

It is important to note that Michigan did not get to this position all by itself. Both the state and HHS must share responsibility for our lack of certification. When we began development of CSES, we asked HHS for approval to build a system based on linking existing local systems. Our proposed design was denied. To better explain what we were requesting then, and what we are requesting again now, two graphics are included at the back of this written testimony. The first graphic depicts the federal, single statewide systems design; the second provides a graphic depiction of Michigan's proposed alternative system. Upon careful review you will notice how similar these two designs are. There is little difference between our alternate system design and the federal requirement for a single system.

Another key aspect of our system design is that there is a single point of access for clients, the federal government and other states to interact with our system. Both the federal model and our alternative allow any case to be accessed from any other location in the state. To the users and the external world, our design looks and feels just like a single statewide system. Is such a system possible? Absolutely! Using this alternate system design, we can establish linkages with each FOC not using the state developed system and rapidly make them a part of our statewide- automated system. By utilizing alternative systems designs such as distributed or linked systems, the programmatic requirements for completion of FSA88 and PRWORA can be developed with newer rapid application development tools and will be more readily adaptable to future policy changes. We strongly urge your continued support of this concept.

ALTERNATIVE SYSTEMS APPROACH CREATES MANY ADVANTAGES To date, the "one statewide system" requirement for Federal certification of Child Support Enforcement systems, remains one of the most prevalent obstacles to completion of the FSA88 requirements for the large states. States are trapped trying to balance the federal regulations, state statutes and individual needs of varying sized counties. The federally mandated "one-size-fits-all" approach actually places large counties in the position of having to accept a state based system that in many instances delivers less functionality than their current systems. When the original FSA88 requirements were released, technology options were limited to a mainframe central system approach to accomplish Child Support Enforcement. Since that time, technology advancements have made it possible to share data and computer applications between

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many different systems. Information gathering and data exchange is now much easier to orchestrate at a much-reduced cost. We are all familiar with 2 commonly used distributed or linked systems. Millions of Internet users with different types of computer equipment access the same programs and information on line. ATMs which allow instant access to several different banking institutions simultaneously through similar programming and linkages between systems are a part of our daily lives. This same concept is what Michigan and other states want to use to make our child support systems work for us and for those who depend on our services.

The Child Support Enforcement System, by virtue of the required functionality, begs for the use of a more "open" systems approach that allows communication with various systems architectures, a myriad of government agencies, and external organizations such as credit bureaus, location databases, financial institutions, etc. Current industry standard communication languages enables the bridging of many different data sources to create comprehensive information necessary for Child Support Systems to be very effective in locating parents, establishing paternity, enforcement of court orders and ultimately maximize collections of child support dollars. This flexibility offered by alternative systems strategies is imperative for the larger county-based states to reach compliance. Alternative systems designs offer states the ability to meet the programmatic requirements while selecting the most logical and productive technology to fit their specific environment. If a state can meet the federal specifications for a certified Child Support Enforcement system, why does it matter "how" it was technologically accomplished?

The following are benefits of utilizing alternative systems designs: - For larger county-based states, the use of alternative systems configurations offers many economies of scale. Distributed systems designs allow appropriate sizing of equipment to the size of the county ensuring the response time and capacity to handle sizable caseloads.

- By utilizing an alternative system strategy, large counties do not have to surrender additional functionality already built into their systems to participate in the centralized functions necessary for compliance with Federal regulations. One example of this enhanced functionality is the imaging system in place in Oakland County Michigan. The local FOC relies on this imaging system for their day-to-day operations. But neither HHS nor Michigan will be spending the dollars needed to provide this enhanced functionality to our other 82 counties. Imaging is not needed to meet certification, but why must we force Oakland County to give up this functionality?

- Alternative systems configurations allow maximum flexibility between counties or offices of various sizes. Larger counties may need things like imaging systems to meet their massive record keeping requirements while smaller counties with small caseloads may not require the additional equipment and functionality. Small counties can be grouped together, accessing regional based servers, further minimizing costs for equipment and operational support. - By utilizing alternative systems designs such as distributed or linked systems, the programmatic requirements for completion of FSA88 and PRWORA can be developed with newer rapid application development tools and will be more readily acceptable to future policy changes.

- Distributed systems can be built in layers and modules. Should a particular part of the system require updating, the resulting costs are more incremental and less disruptive to the overall program. Future policy modification also becomes a much less daunting and less expensive task to accomplish by utilizing an open systems strategy.

- County based child support offices have developed systems very intertwined with other county based functions such as automated court dockets. Large counties cannot justify dumping their existing systems as they are used for many additional county based services. They can link those systems into the centralized functions via distributed server environments to accomplish the required standardized processes required for financials, collections and enforcement.

- An additional advantage using a distributed system strategy is the disaster recovery techniques that can be applied to ensure that even if one county system is not functioning, all other counties can continue to function. Similarly, backups of county specific data between counties ensures rapid data recovery in case of system failure ensuring that clients checks will not be unduly delayed. By adopting a more flexible approach to "how" a "statewide system" is accomplished, the long-term goals of maximized enforcement and collections can be more quickly realized. Specific Child Support functions can still be "centralized" to meet the programmatic goals necessary for the FSA88 and PRWORA requirements without being so restrictive. Linked or distributed systems are capable of enforcing the specific procedures and logic required for collections, distribution of support payments, disbursement of funds, timeliness of payments and notifications to clients.

Relaxation of the system based certification requirements will foster the use of advanced technologies. This will allow states to establish statewide data warehouses as repositories for data and allow states to link to additional state and local systems. This will greatly assist us in meeting the newly required PRWORA functionality. States will still retain responsibility for statewide policy compliance, systems compliance, future policy implementation and will continue to be the single point of contact for interstate cases and the federal government.

PRWORA AND THE YEAR 2000 With the advent of the PRWORA requirements, states that are in the process of completing the FSA88 requirements literally have to complete the requirements and then modify them to meet some of the new PRWORA requirements. This is wasteful of critical resources from both a staff and funding perspective. We suggest this situation can be rectified through a corrective action plan approach. The date established for completion of the PRWORA requirements, October 2000 is already in jeopardy, as Child Support Enforcement Systems must undergo Year 2000 modifications during this same period of

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time. HHS and Congress should reconsider the PRWORA deadline in light of the Y2K problems facing all levels of government, as well as both the public and private sector.

We are pleased this subcommittee is recommending a change to the current fiscal penalty for not meeting the FSA 88 system deadline. The Federal Financial Participation and incentive money Title IV-D provides to Michigan largely funds the performance mentioned earlier. Even the 4% penalty proposed in the bill this subcommittee is proposing would cost Michigan \$6.44 million dollars in the current fiscal year. This penalty will not help Michigan complete our system, nor maintain services to families. In fact it will result in a reduction in services to our clients and lost revenue to both the state and federal governments. A 4% loss in productivity due to the 4% sanction would result in a loss of about \$43 million in collections not going to families, 706 paternities not being established and 11,300 child support cases not being enforced. The key question that needs to be addressed is what do you want from a penalty? If it is to encourage states to complete their systems, then a modification in the existing penalty language should be made.

As an alternative to the proposal contained in this bill, we recommend the subcommittee adopt the Corrective Action Plan (CAP) process as a model for addressing the systems deadline penalty issue. The CAP process has a successful track record when used for making corrections in other parts of the Title IV-D program. The focus of the CAP process is on fixing the problem identified and the CAP process is well established. We recommend that you approve a process whereby each state not yet certified is required to develop a CAP that contains specific deliverables with associated time frames. The criteria for the CAP should be that both HHS and the state agree to the plan and concur that following the plan will lead to system certification. We strongly urge you to consider basing the penalty and penalty forgiveness processes on the successful completion of the annual CAP deliverables. If the state completes all requirements in its CAP scheduled for the year, the state would be eligible for a 75% reduction in the penalty. If the state fails to meet its CAP deliverables the penalties would be applied. We also recommend a pro-rated reduction in the penalty based on when the state completes their system. Michigan suggests the following pro-rated penalty reduction: - Certified in July - Sept: 75% forgiven, - Certified in April - June: 80% forgiven, - Certified in Jan - March: 85% forgiven, and - Certified in Oct - Dec: 90% forgiven. A graduated penalty would further encourage states to complete their systems as quickly as possible. Michigan feels that this process is more likely to lead to states reaching certification more quickly than the "certification only" penalty forgiveness.

INCENTIVE PAYMENTS Michigan's child support program achieved the results listed above in spite of having lost approximately \$20 million in federal incentive payments since FY 92. These payments were lost due to the dramatic reduction in the caseload brought about because of our successful welfare reform effort To Strengthen Michigan Families. The current incentive process contains a "cap" on incentive earnings which links the amount of incentive to the amount of support collected for families on assistance. This "cap" has created a goal conflict between the child support program and family independence. As more families become financially independent their child support payments do not count towards the state's incentive earnings. Therefore, the better welfare reform works by reducing the welfare rolls; the more funding the child support program loses. Under welfare reform, the current child support incentive formula has actually become a "disincentive" for states. Because of Michigan's success in welfare reform we have lost the very funding we need to assure child support is a reliable source of income to the families who have been able to find jobs and leave public assistance.

Michigan wants to acknowledge the work members of this committee have put into this bill by including modifications to the child support incentive formula. It is critical that child support incentive payments, and the entire IV-D program, begin to reward states for the results they produce, not the activities they perform. The proposed new incentive structure does just that. Michigan strongly supports this results-based program focus. The incentive formula included in this bill may not be perfect, but it is a much-improved system when compared to the current formula.

CLOSING Michigan wants to emphasize that our performance shows that we are committed to providing the best child support program we can. We are asking for more systems flexibility so that we can continue our excellent performance. These issues are complex and require thoughtful and serious consideration by the Congress. We look forward to working with the Members of the Ways and Means Subcommittee on this important issue.

END



Cynthia A. Rice

01/30/98 08:58:58 AM

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To: See the distribution list at the bottom of this message
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Subject: This AP story ran yesterday on child support

WASHINGTON (AP) -- Fourteen states would avoid severe penalties for failing to computerize their child support systems under bipartisan legislation.

Under current law, states that failed to put systems in place by last fall are supposed to lose all of their federal money to run child support collection systems. They also stand to lose their entire welfare block grants -- meaning millions and sometimes billions of dollars.

States facing penalties are Alaska, California, Hawaii, Illinois, Indiana, Maryland, Michigan, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania and South Carolina, plus the District of Columbia and the Virgin Islands.

The legislation, which is supported by the Clinton administration and has bipartisan support in the House, would reduce this year's penalty to 4 percent of the federal child support grant.

If states still haven't computerized by next year, the penalty would increase to 8 percent. It would grow to 16 percent in 2000 and to 20 percent in 2001 and subsequent years.

Computerization is important because they it lets states track parents who owe child support when they move from county to county or from state to state. Once every state is operational, a child support worker in Maine could ask a federal computer to search records for a deadbeat dad who might have moved and gotten a job in New Hampshire, New York or New Mexico.

In 1980, Congress agreed to pay 90 percent of the cost of computerization. In 1988, it required states to automate. Although the deadline has been extended once already -- and though \$2.6 billion in federal and state money has been spent -- 14 state systems are still not functioning statewide.

The rest of the states and territories have had their systems certified or they are ready to be certified.

No state would lose its welfare money for failing to computerize under the legislation, which is co-sponsored by Reps. Clay Shaw, R-Fla., and Sander Levin, D-Mich.

The proposed changes in the child support collection system grant penalties would mean a lot to states.

For instance, under the current penalties, California would lose about \$340 million this year. Michigan would lose \$106 million, and Maryland would lose \$59 million.

Under the new legislation, California's penalty would drop to about \$13 million this year, \$26 million in 1999, \$52 million in 2000 and more than \$68 million in 2001.

The bill also provides for a new way to divide federal money to aid state child support collection programs.

The new system, which has wide support, would reward states that do the best job collecting payments.

The House was expected to vote on the bill by early March.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Andrea Kane/OPD/EOP
Emil E. Parker/OPD/EOP



DATE: _____

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

FROM:

TO : Cynthia Rice
OFFICE : _____
ROOM NO : _____
PHONE NO : _____
FAX NO : 456-7431

- MARY M. BOURDETTE
- BARBARA P. CLARK
- GREG JONES
- PATRICIA BRAVO
- AMY LOCKHART
- LAUREN GRIFFIN
- LULA BARNES

TOTAL PAGES INCLUDING COVER): _____

REMARKS:

Cynthia - The latest bill language
~~Here is Loren Jensen's testimony.~~

105TH CONGRESS
2D SESSION

H. R. 3130

IN THE HOUSE OF REPRESENTATIVES

Mr. SHAW (for himself and Mr. LEVIN) introduced the following bill; which was referred to the Committee on _____

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, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Child Support Per-
5 formance and Incentive Act of 1998".

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

- 3 Sec. 1. Short title.
- 4 Sec. 2. Table of contents.

5 **TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS**

- 6 Sec. 101. Alternative penalty procedure.
- 7 Sec. 102. Authority to waive single Statewide automated data processing and
8 information retrieval system requirement.

9 **TITLE II—CHILD SUPPORT INCENTIVE SYSTEM**

- 10 Sec. 201. Incentive payments to States.

11 **TITLE III—ADOPTION PROVISIONS**

- 12 Sec. 301. More flexible penalty procedure to be applied for failing to permit
13 interjurisdictional adoption.
- 14 Sec. 302. Technical corrections.

15 **3 TITLE I—CHILD SUPPORT DATA**
16 **4 PROCESSING REQUIREMENTS**

17 **5 SEC. 101. ALTERNATIVE PENALTY PROCEDURE.**

18 (a) **IN GENERAL.**—Section 455(a) of the Social Secu-
19 rity Act (42 U.S.C. 655(a)) is amended by adding at the
20 end the following:

21 “(4)(A) If—

22 “(i) the Secretary determines that a State plan
23 under section 454 would (in the absence of this
24 paragraph) be disapproved for the failure of the
25 State comply with section 454(24)(A), and that the
26 State has made and is continuing to make a good
27 faith effort to so comply; and

28 “(ii) the State has submitted to the Secretary
29 a corrective compliance plan that describes how the

1 State will achieve such compliance, which has been
2 approved by the Secretary,
3 then the Secretary shall not disapprove the State plan
4 under section 454, and the Secretary shall reduce the
5 amount otherwise payable to the State under paragraph
6 (1)(A) of this subsection for the fiscal year by the penalty
7 amount.

8 “(B) In this paragraph:

9 “(i) The term ‘penalty amount’ means, with re-
10 spect to a failure of a State to comply with section
11 454(24)—

12 “(I) 4 percent of the penalty base, in the
13 case of the 1st fiscal year in which such a fail-
14 ure by the State occurs;

15 “(II) 8 percent of the penalty base, in the
16 case of the 2nd such fiscal year;

17 “(III) 16 percent of the penalty base, in
18 the case of the 3rd such fiscal year; or

19 “(IV) 20 percent of the penalty base, in
20 the case of the 4th or any subsequent such fis-
21 cal year.

22 “(ii) The term ‘penalty base’ means, with re-
23 spect to a failure of a State to comply with section
24 454(24) during a fiscal year, the amount otherwise

1 payable to the State under paragraph (1)(A) of this
2 subsection for the preceding fiscal year.

3 “(C)(i) The Secretary shall waive a penalty under
4 this paragraph for any failure of a State to comply with
5 section 454(24)(A) during fiscal year 1998 if—

6 “(I) by December 31, 1997, the State has sub-
7 mitted to the Secretary a request that the Secretary
8 certify the State as having met the requirements of
9 such section;

10 “(II) the Secretary has provided the certifi-
11 cation as a result of a review conducted pursuant to
12 the request; and

13 “(III) the State has not failed such a review.

14 “(ii) If a State with respect to which a reduction is
15 made under this paragraph for a fiscal year achieves com-
16 pliance with section 454(24)(A) by the beginning of the
17 succeeding fiscal year, the Secretary shall increase the
18 amount otherwise payable to the State under paragraph
19 (1)(A) of this subsection for the succeeding fiscal year by
20 an amount equal to 75 percent of the reduction for the
21 fiscal year.

22 “(iii) The Secretary shall reduce the amount of any
23 reduction that, in the absence of this clause, would be re-
24 quired to be made under this paragraph by reason of the
25 failure of a State to achieve compliance with section

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5

1 454(24)(B) during the fiscal year, by an amount equal
2 to 20 percent of the amount of the otherwise required re-
3 duction, for each State performance measure described in
4 section 458A(b)(4) with respect to which the applicable
5 percentage under section 458A(b)(6) for the fiscal year
6 is 100 percent, if the Secretary has made the determina-
7 tion described in section 458A(b)(5)(B) with respect to the
8 State for the fiscal year.

9 “(D) The preceding provisions of this paragraph (ex-
10 cept for subparagraph (C)(i)) shall apply, separately and
11 independently, to a failure to comply with section
12 454(24)(B) in the same manner in which the preceding
13 provisions apply to a failure to comply with section
14 454(24)(A).”

15 (b) INAPPLICABILITY OF PENALTY UNDER TANF
16 PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42
17 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting
18 “(other than section 454(24))” before the semicolon.

19 **SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTO-**
20 **MATED DATA PROCESSING AND INFORMA-**
21 **TION RETRIEVAL SYSTEM REQUIREMENT.**

22 (a) IN GENERAL.—Section 452(d)(3) of the Social
23 Security Act (42 U.S.C. 652(d)(3)) is amended to read
24 as follows:

1 “(3) The Secretary may waive any requirement of
2 paragraph (1) or any condition specified under section
3 454(16), and shall waive the single statewide system re-
4 quirement under sections 454(16) and 454A, with respect
5 to a State if—

6 “(A) the State demonstrates to the satisfaction
7 of the Secretary that the State has or can develop
8 an alternative system or systems that enable the
9 State—

10 “(i) for purposes of section 409(a)(8), to
11 achieve the paternity establishment percentages
12 (as defined in section 452(g)(2)) and other per-
13 formance measures that may be established by
14 the Secretary;

15 “(ii) to submit data under section
16 454(15)(B) that is complete and reliable;

17 “(iii) to substantially comply with the re-
18 quirements of this part; and

19 “(iv) in the case of a request to waive the
20 single statewide system requirement, to—

21 “(I) meet all functional requirements
22 of sections 454(16) and 454A;

23 “(II) ensure that calculation of dis-
24 tributions meets the requirements of sec-
25 tion 457 and accounts for distributions to

1 children in different families or in different
2 States or sub-State jurisdictions, and for
3 distributions to other States;

4 "(III) ensure that there is only 1
5 point of contact in the State for all inter-
6 state case processing and coordinated,
7 automated intrastate case management;

8 "(IV) ensure that standardized data
9 elements, forms, and definitions are used
10 throughout the State;

11 "(V) complete the alternative system
12 in no more time than it would take to com-
13 plete a single statewide system that meets
14 such requirement; and

15 "(VI) process child support cases as
16 quickly, efficiently, and effectively as such
17 cases would be processed through a single
18 statewide system that meets such require-
19 ment;

20 "(B)(i) the waiver meets the criteria of para-
21 graphs (1), (2), and (3) of section 1115(c); or

22 "(ii) the State provides assurances to the Sec-
23 retary that steps will be taken to otherwise improve
24 the State's child support enforcement program; and

1 “(C) in the case of a request to waive the single
2 statewide system requirement, the State has submit-
3 ted to the Secretary separate estimates of the total
4 cost of a single statewide system that meets such re-
5 quirement, and of any such alternative system or
6 systems, which shall include estimates of the cost of
7 developing and completing the system and of operat-
8 ing and maintaining the system for 5 years, and the
9 Secretary has agreed with the estimates.”

10 (b) PAYMENTS TO STATES.—Section 455(a)(1) of
11 such Act (42 U.S.C. 655(a)(1)) is amended—

12 (1) by striking “and” at the end of subpara-
13 graph (B);

14 (2) by striking the semicolon at the end of sub-
15 paragraph (C) and inserting “, and”; and

16 (3) by inserting after subparagraph (C) the fol-
17 lowing:

18 “(D) equal to 66 percent of the sums expended
19 by the State during the quarter for an alternative
20 statewide system for which a waiver has been grant-
21 ed under section 452(d)(3), but only to the extent
22 that the total of the sums so expended by the State
23 on or after the date of the enactment of this sub-
24 paragraph does not exceed the least total cost esti-

1 mate submitted by the State pursuant to section
2 452(d)(3)(C) in the request for the waiver;”

3 **TITLE II—CHILD SUPPORT**
4 **INCENTIVE SYSTEM**

5 **SEC. 201. INCENTIVE PAYMENTS TO STATES.**

6 (a) IN GENERAL.—Part D of title IV of the Social
7 Security Act (42 U.S.C. 651–669) is amended by inserting
8 after section 458 the following:

9 **“SEC. 458A. INCENTIVE PAYMENTS TO STATES.**

10 “(a) IN GENERAL.—In addition to any other pay-
11 ment under this part, the Secretary shall, subject to sub-
12 section (f), make an incentive payment to each State for
13 each fiscal year in an amount determined under subsection
14 (b).

15 **“(b) AMOUNT OF INCENTIVE PAYMENT.—**

16 **“(1) IN GENERAL.—**The incentive payment for
17 a State for a fiscal year is equal to the incentive
18 payment pool for the fiscal year, multiplied by the
19 State incentive payment share for the fiscal year.

20 **“(2) INCENTIVE PAYMENT POOL.—**

21 **“(A) IN GENERAL.—**In paragraph (1), the
22 term ‘incentive payment pool’ means—

23 **“(i) \$439,000,000 for fiscal year**
24 **2000;**

- 1 “(ii) \$446,000,000 for fiscal year
2 2001;
3 “(iii) \$468,000,000 for fiscal year
4 2002;
5 “(iv) \$479,000,000 for fiscal year
6 2003;
7 “(v) \$473,000,000 for fiscal year
8 2004;
9 “(vi) \$465,000,000 for fiscal year
10 2005;
11 “(vii) \$478,000,000 for fiscal year
12 2006;
13 “(viii) \$490,000,000 for fiscal year
14 2007; and
15 “(ix) for any succeeding fiscal year,
16 the amount of the incentive payment pool
17 for the fiscal year that precedes such suc-
18 ceeding fiscal year, multiplied by the per-
19 centage (if any) by which the CPI for such
20 preceding fiscal year exceeds the CPI for
21 the 2nd preceding fiscal year.
22 “(B) CPI.—For purposes of subparagraph
23 (A), the CPI for a fiscal year is the average of
24 the Consumer Price Index for the 12-month pe-
25 riod ending on September 30 of the fiscal year.

1 As used in the preceding sentence, the term
2 'Consumer Price Index' means the last
3 Consumer Price Index for all-urban consumers
4 published by the Department of Labor.

5 "(3) STATE INCENTIVE PAYMENT SHARE.—In
6 paragraph (1), the term 'State incentive payment
7 share' means, with respect to a fiscal year—

8 "(A) the incentive base amount for the
9 State for the fiscal year; divided by

10 "(B) the sum of the incentive base
11 amounts for all of the States for the fiscal year.

12 "(4) INCENTIVE BASE AMOUNT.—In paragraph
13 (3), the term 'incentive base amount' means, with
14 respect to a State and a fiscal year, the sum of the
15 applicable percentages (determined in accordance
16 with paragraph (6)) multiplied by the corresponding
17 maximum incentive base amounts for the State for
18 the fiscal year, with respect to each of the following
19 measures of State performance for the fiscal year:

20 "(A) The paternity establishment perform-
21 ance level.

22 "(B) The support order performance level.

23 "(C) The current payment performance
24 level.

1 “(D) The arrearage payment performance
2 level.

3 “(E) The cost-effectiveness performance
4 level.

5 “(5) MAXIMUM INCENTIVE BASE AMOUNT.—

6 “(A) IN GENERAL.—For purposes of para-
7 graph (4), the maximum incentive base amount
8 for a State for a fiscal year is—

9 “(i) with respect to the performance
10 measures described in subparagraphs (A),
11 (B), and (C) of paragraph (4), the State
12 collections base for the fiscal year; and

13 “(ii) with respect to the performance
14 measures described in subparagraphs (D)
15 and (E) of paragraph (4), 75 percent of
16 the State collections base for the fiscal
17 year.

18 “(B) DATA REQUIRED TO BE COMPLETE
19 AND RELIABLE.—Notwithstanding subpara-
20 graph (A), the maximum incentive base amount
21 for a State for a fiscal year with respect to a
22 performance measure described in paragraph
23 (4) is zero, unless the Secretary determines, on
24 the basis of an audit performed under section
25 452(a)(4)(C)(i), that the data which the State

1 submitted pursuant to section 454(15)(B) for
2 the fiscal year and which is used to determine
3 the performance level involved is complete and
4 reliable.

5 “(C) STATE COLLECTIONS BASE.—For
6 purposes of subparagraph (A), the State collec-
7 tions base for a fiscal year is equal to the sum
8 of—

9 “(i) 2 times the sum of—

10 “(I) the total amount of support
11 collected during the fiscal year under
12 the State plan approved under this
13 part in cases in which the support ob-
14 ligation involved is required to be as-
15 signed to the State pursuant to part
16 A or E of this title or title XIX; and

17 “(II) the total amount of support
18 collected during the fiscal year under
19 the State plan approved under this
20 part in cases in which the support ob-
21 ligation involved was so assigned but,
22 at the time of collection, is not re-
23 quired to be so assigned; and

24 “(ii) the total amount of support col-
25 lected during the fiscal year under the

1 State plan approved under this part in all
2 other cases.

3 “(6) DETERMINATION OF APPLICABLE PER-
4 CENTAGES BASED ON PERFORMANCE LEVELS.—

5 “(A) PATERNITY ESTABLISHMENT.—

6 “(i) DETERMINATION OF PATERNITY
7 ESTABLISHMENT PERFORMANCE LEVEL.—

8 The paternity establishment performance
9 level for a State for a fiscal year is, at the
10 option of the State, the IV-D paternity es-
11 tablishment percentage determined under
12 section 452(g)(2)(A) or the statewide pa-
13 ternity establishment percentage deter-
14 mined under section 452(g)(2)(B).

15 “(ii) DETERMINATION OF APPLICABLE
16 PERCENTAGE.—The applicable percentage
17 with respect to a State’s paternity estab-
18 lishment performance level is as follows:

“If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79

"If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

1 Notwithstanding the preceding sentence, if
2 the paternity establishment performance
3 level of a State for a fiscal year is less
4 than 50 percent but exceeds by at least 10
5 percentage points the paternity establish-
6 ment performance level of the State for the
7 immediately preceding fiscal year, then the
8 applicable percentage with respect to the
9 State's paternity establishment perform-
10 ance level is 50 percent.

11 “(B) ESTABLISHMENT OF CHILD SUPPORT
12 ORDERS.—

13 “(i) DETERMINATION OF SUPPORT
14 ORDER PERFORMANCE LEVEL.—The sup-

1 port order performance level for a State
2 for a fiscal year is the percentage of the
3 total number of cases under the State plan
4 approved under this part in which there is
5 a support order during the fiscal year.

6 “(ii) DETERMINATION OF APPLICABLE
7 PERCENTAGE.—The applicable percentage
8 with respect to a State’s support order per-
9 formance level is as follows:

“If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100
79%	98
78%	96
77%	94
76%	92
75%	90
74%	88
73%	86
72%	84
71%	82
70%	80
69%	79
68%	78
67%	77
66%	76
65%	75
64%	74
63%	73
62%	72
61%	71
60%	70
59%	69
58%	68
57%	67
56%	66
55%	65
54%	64
53%	63
52%	62
51%	61
50%	60

"If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
0%	50%	0.

1 Notwithstanding the preceding sentence, if
2 the support order performance level of a
3 State for a fiscal year is less than 50 per-
4 cent but exceeds by at least 5 percentage
5 points the support order performance level
6 of the State for the immediately preceding
7 fiscal year, then the applicable percentage
8 with respect to the State's support order
9 performance level is 50 percent.

10 “(C) COLLECTIONS ON CURRENT CHILD
11 SUPPORT DUE.—

12 “(i) DETERMINATION OF CURRENT
13 PAYMENT PERFORMANCE LEVEL.—The
14 current payment performance level for a
15 State for a fiscal year is equal to the total
16 amount of current support collected during
17 the fiscal year under the State plan ap-
18 proved under this part divided by the total
19 amount of current support owed during the
20 fiscal year in all cases under the State
21 plan, expressed as a percentage.

22 “(ii) DETERMINATION OF APPLICABLE
23 PERCENTAGE.—The applicable percentage

18

- 1 with respect to a State's current payment
2 performance level is as follows:

If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

- 3 Notwithstanding the preceding sentence, if
4 the current payment performance level of a

1 State for a fiscal year is less than 40 per-
2 cent but exceeds by at least 5 percentage
3 points the current payment performance
4 level of the State for the immediately pre-
5 ceding fiscal year, then the applicable per-
6 centage with respect to the State's current
7 payment performance level is 50 percent.

8 "(D) COLLECTIONS ON CHILD SUPPORT
9 ARREARAGES.—

10 "(i) DETERMINATION OF ARREARAGE
11 PAYMENT PERFORMANCE LEVEL.—The ar-
12 rearage payment performance level for a
13 State for a fiscal year is equal to the total
14 number of cases under the State plan ap-
15 proved under this part in which payments
16 of past-due child support were received
17 during the fiscal year and part or all of the
18 payments were distributed to the family to
19 whom the past-due child support was owed
20 (or, if all past-due child support owed to
21 the family was, at the time of receipt, sub-
22 ject to an assignment to the State, part or
23 all of the payments were retained by the
24 State) divided by the total number of cases
25 under the State plan in which there is

1 past-due child support, expressed as a per-
2 centage.

3 “(ii) DETERMINATION OF APPLICABLE
4 PERCENTAGE.—The applicable percentage
5 with respect to a State’s arrearage pay-
6 ment performance level is as follows:

*If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100
79%	98
78%	96
77%	94
76%	92
75%	90
74%	88
73%	86
72%	84
71%	82
70%	80
69%	79
68%	78
67%	77
66%	76
65%	75
64%	74
63%	73
62%	72
61%	71
60%	70
59%	69
58%	68
57%	67
56%	66
55%	65
54%	64
53%	63
52%	62
51%	61
50%	60
49%	59
48%	58
47%	57
46%	56
45%	55
44%	54
43%	53
42%	52

"If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
41%	42%	51
40%	41%	50
0%	40%	0.

1 Notwithstanding the preceding sentence, if
2 the arrearage payment performance level
3 of a State for a fiscal year is less than 40
4 percent but exceeds by at least 5 percent-
5 age points the arrearage payment perform-
6 ance level of the State for the immediately
7 preceding fiscal year, then the applicable
8 percentage with respect to the State's ar-
9 rearage payment performance level is 50
10 percent.

11 “(E) COST-EFFECTIVENESS.—

12 “(i) DETERMINATION OF COST-EF-
13 FECTIVENESS PERFORMANCE LEVEL.—The
14 cost-effectiveness performance level for a
15 State for a fiscal year is equal to the total
16 amount collected during the fiscal year
17 under the State plan approved under this
18 part divided by the total amount expended
19 during the fiscal year under the State plan,
20 expressed as a ratio.

21 “(ii) DETERMINATION OF APPLICABLE
22 PERCENTAGE.—The applicable percentage

1 with respect to a State's cost-effectiveness
2 performance level is as follows:

"If the cost effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00	100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

3 "(c) TREATMENT OF INTERSTATE COLLECTIONS.—

4 In computing incentive payments under this section, sup-
5 port which is collected by a State at the request of another
6 State shall be treated as having been collected in full by
7 both States, and any amounts expended by a State in car-
8 rying out a special project assisted under section 455(e)
9 shall be excluded.

10 "(d) ADMINISTRATIVE PROVISIONS.—The amounts

11 of the incentive payments to be made to the States under
12 this section for a fiscal year shall be estimated by the Sec-
13 retary at or before the beginning of the fiscal year on the
14 basis of the best information available. The Secretary shall
15 make the payments for the fiscal year, on a quarterly basis
16 (with each quarterly payment being made no later than
17 the beginning of the quarter involved), in the amounts so
18 estimated, reduced or increased to the extent of any over-
19 payments or underpayments which the Secretary deter-

1 mines were made under this section to the States involved
2 for prior periods and with respect to which adjustment has
3 not already been made under this subsection. Upon the
4 making of any estimate by the Secretary under the preced-
5 ing sentence, any appropriations available for payments
6 under this section are deemed obligated.

7 “(e) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary governing the cal-
9 culation of incentive payments under this section, includ-
10 ing directions for excluding from the calculations certain
11 closed cases and cases over which the States do not have
12 jurisdiction.

13 “(f) REINVESTMENT.—A State to which a payment
14 is made under this section shall expend the full amount
15 of the payment—

16 “(1) to carry out the State plan approved under
17 this part; or

18 “(2) for any activity (including cost-effective
19 contracts with local agencies) approved by the Sec-
20 retary, whether or not the expenditures for which
21 are eligible for reimbursement under this part, which
22 may contribute to improving the effectiveness or effi-
23 ciency of the State program operated under this
24 part.”.

1 (b) TRANSITION RULE.—Notwithstanding any other
2 provision of law—

3 (1) for fiscal year 2000, the Secretary shall re-
4 duce by $\frac{1}{3}$ the amount otherwise payable to a State
5 under section 458 of the Social Security Act, and
6 shall reduce by $\frac{2}{3}$ the amount otherwise payable to
7 a State under section 458A of such Act; and

8 (2) for fiscal year 2001, the Secretary shall re-
9 duce by $\frac{2}{3}$ the amount otherwise payable to a State
10 under section 458 of the Social Security Act, and
11 shall reduce by $\frac{1}{3}$ the amount otherwise payable to
12 a State under section 458A of such Act.

13 (c) REGULATIONS.—Within 9 months after the date
14 of the enactment of this section, the Secretary of Health
15 and Human Services shall prescribe regulations governing
16 the implementation of section 458A of the Social Security
17 Act when such section takes effect and the implementation
18 of subsection (b) of this section.

19 (d) STUDIES.—

20 (1) GENERAL REVIEW OF NEW INCENTIVE PAY-
21 MENT SYSTEM.—

22 (A) IN GENERAL.—The Secretary of
23 Health and Human Services shall conduct a
24 study of the implementation of the incentive
25 payment system established by section 458A of

1 the Social Security Act, in order to identify the
2 problems and successes of the system.

3 (B) REPORTS TO THE CONGRESS.—

4 (i) REPORT ON VARIATIONS IN STATE
5 PERFORMANCE ATTRIBUTABLE TO DEMO-
6 GRAPHIC VARIABLES.—Not later than Oc-
7 tober 1, 2000, the Secretary shall submit
8 to the Congress a report that identifies any
9 demographic or economic variables that ac-
10 count for differences in the performance
11 levels achieved by the States with respect
12 to the performance measures used in the
13 system, and contains the recommendations
14 of the Secretary for such adjustments to
15 the system as may be necessary to ensure
16 that the relative performance of States is
17 measured from a baseline that takes ac-
18 count of any such variables.

19 (ii) INTERIM REPORT.—Not later than
20 March 1, 2001, the Secretary shall submit
21 to the Congress an interim report that con-
22 tains the findings of the study required by
23 subparagraph (A).

24 (iii) FINAL REPORT.—Not later than
25 October 1, 2003, the Secretary shall sub-

1 mit to the Congress a final report that
2 contains the final findings of the study re-
3 quired by subparagraph (A). The report
4 shall include any recommendations for
5 changes in the system that the Secretary
6 determines would improve the operation of
7 the child support enforcement program.

8 (2) DEVELOPMENT OF MEDICAL SUPPORT IN-
9 CENTIVE.—

10 (A) IN GENERAL.—The Secretary of
11 Health and Human Services, in consultation
12 with State directors of programs operated
13 under part D of title IV of the Social Security
14 Act and representatives of children potentially
15 eligible for medical support, shall develop a per-
16 formance measure based on the effectiveness of
17 States in establishing and enforcing medical
18 support obligations, and shall make rec-
19 ommendations for the incorporation of the
20 measure, in a-revenue neutral manner, into the
21 incentive payment system established by section
22 458A of the Social Security Act.

23 (B) REPORT.—Not later than October 1,
24 1999, the Secretary shall submit to the Con-
25 gress a report that describes the performance

1 measure and contains the recommendations re-
2 quired by subparagraph (A).

3 (e) TECHNICAL AMENDMENTS.—

4 (1) IN GENERAL.—Section 341 of the Personal
5 Responsibility and Work Opportunity Reconciliation
6 Act of 1996 (42 U.S.C. 658 note) is amended—

7 (A) by striking subsection (a) and redesignig-
8 nating subsections (b), (c), and (d) as sub-
9 sections (a), (b), and (c), respectively; and

10 (B) in subsection (c) (as so redesignig-
11 nated)—

12 (i) by striking paragraph (1) and in-
13 serting the following:

14 “(1) CONFORMING AMENDMENTS TO PRESENT
15 SYSTEM.—The amendments made by subsection (a)
16 of this section shall become effective with respect to
17 a State as of the date the amendments made by sec-
18 tion 103(a) (without regard to section 116(a)(2))
19 first apply to the State.”; and

20 (ii) in paragraph (2), by striking
21 “(c)” and inserting “(b)”.

22 (2) EFFECTIVE DATE.—The amendments made
23 by this section shall take effect as if included in the
24 enactment of section 341 of the Personal Respon-

1 sibility and Work Opportunity Reconciliation Act of
2 1996.

3 (f) ELIMINATION OF PREDECESSOR INCENTIVE PAY-
4 MENT SYSTEM.—

5 (1) REPEAL.—Section 458 of the Social Secu-
6 rity Act (42 U.S.C. 658) is repealed.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 458A of the Social Security
9 Act (42 U.S.C. 658a) is redesignated as section
10 458.

11 (B) Subsection (d)(1) of this section is
12 amended by striking “458A” and inserting
13 “458”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall take effect on October 1,
16 2001.

17 (g) GENERAL EFFECTIVE DATE.—Except as other-
18 wise provided in this section, the amendments made by
19 this section shall take effect on October 1, 1999.

1 **TITLE III—ADOPTION**
2 **PROVISIONS**

3 **SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE AP-**
4 **PLIED FOR FAILING TO PERMIT INTERJURIS-**
5 **DICTIONAL ADOPTION.**

6 (a) Section 474(d) of the Social Security Act (42
7 U.S.C. 674(d)) is amended in each of paragraphs (1) and
8 (2) by inserting "or subsection (e) of this section" after
9 "section 471(a)(18)".

10 (b) Section 474(e) of such Act (42 U.S.C. 674(e))
11 is amended—

12 (1) by striking all that precedes paragraph (1)
13 and inserting the following:

14 "(e) As a condition of receiving funds under this part,
15 a State shall not—";

16 (2) in paragraph (1), by striking "denied or de-
17 layed" and inserting "deny or delay"; and

18 (3) in paragraph (2), by striking "failed" and
19 inserting "fail".

20 (c) **RETROACTIVITY.**—The amendments made by this
21 section shall take effect as if included in section 202(b)
22 of the Adoption and Safe Families Act of 1997.

23 **SEC. 302. TECHNICAL CORRECTIONS.**

24 Section 473A(c)(2)(B) of the Social Security Act (42
25 U.S.C. 673b(c)(2)(B)) is amended—

30

- 1 (1) by striking "November 30, 1997" and in-
- 2 serting "April 30, 1998"; and
- 3 (2) by striking "March 1, 1998" and inserting
- 4 "July 1, 1998".

**Lawmaker Backs State's Bid for Lower Child Support
Penalty (Washn) By Melissa Healy and Virginia Ellis
(c) 1998, Los Angeles Times**

WASHINGTON Under intense pressure from California state and county officials, the principal author of the 1996 welfare reform law is ready to propose changes to the landmark measure that could shield California from a devastating \$4 billion penalty in 1998 alone.

Less than 18 months after the welfare law was enacted, Rep. Clay Shaw, R-Fla., says Congress must scale back the automatic penalties it would impose on states that fail to build centralized computer systems to track parents who owe child support.

Shaw is set to propose a new penalty formula that could reduce the sanction California faces this year from a projected \$4 billion to about \$108 million. Shaw also hopes to relax the law's requirement that states build strictly integrated, centralized systems.

Shaw's proposal would ease California's path to compliance by allowing the state to establish a loosely linked network of dissimilar county child-support enforcement systems.

Shaw, chairman of the House Ways and Means Committee's subcommittee on human resources, acknowledged in an interview that his draft plan is designed specifically to bail California out of its failure to meet the welfare law's requirements for a single, statewide computer system for child-support enforcement.

The state already has missed the first deadline for creating such a system, and its efforts to build one have been stymied by massive technical and political problems.

"It's not entirely fair to those who really busted their backs to get the job done and tried to comply," said Shaw, who intends to air his proposals later this month. "However, California's problems are more immense than many other states', and there will be some penalty involved. But it won't take so much money out that it will be tremendously regressive."

Shaw's proposal, which already has sparked controversy, comes as California's child-support enforcement effort languishes in disarray. California collects support for less than 14 percent of the families that apply for it, and 3 million children receive nothing from the absent parent.

Many experts fault California's system of county-administered child-support enforcement, whose parts are not linked together by a single computer system. As a result, for instance, a Sacramento

mother hoping to get child-support from a father living in San Diego might have to deal with two distinct systems that don't easily communicate with each other and which may have vastly different rules and regulations.

The welfare reform law set out to fix that problem, mandating that each state have a "seamless" system that would track an absent parent's moves from county to county and make it easy to track whether that parent has kept up with child-support payments.

Although the state of California has spent \$100 million to build a computer system that would satisfy the requirements of the welfare law, Gov. Wilson in November abandoned the project and cancelled a \$103 million contract with computer giant Lockheed-Martin IMS. Wilson's action came after his administration concluded that it would cost more to correct problems with the Lockheed system than to launch a new effort.

But with that new effort not yet under way, the state is nearly certain to remain out-of-compliance with the welfare law for several more years. And under the terms of the law now on the books, that infraction could cost California its entire welfare block grant for each year that its system fails to meet the federal standard.

Under Shaw's plan, the secretary of the U.S. Department of Health and Human Services still would have to sanction California for each year it fails to institute an integrated system for tracking non-custodial parents. But the secretary would have the latitude to adopt a less punitive formula, dunning the state for 4 percent of its federal child-support enforcement block grant or about \$12 million in the first year of non-compliance.

The amount of the less-punitive sanction would increase over consecutive years from 8 percent or \$24 million in California's case of the block grant in the second year, to a ceiling of 20 percent \$60 million in California in the fifth year of non-compliance.

If a state initially fails to meet the requirements of the law but comes into compliance later within the same year, Shaw's plan would allow the HHS secretary to return 75 percent of a state's penalty to that state.

1/14/98

Michael Kelly

The Child-Care Experiment

In the background paper that the White House provided for its child-care proposals last week, there was one page describing, in hard numbers, the way Americans care for their children. It was a depressing document.

In 1995, nearly 13 million—more than half—of the nation's 21 million preschool children were receiving child care from someone other than their parents. Of children under the age of 1, 45 percent were under such care. And these infants and toddlers and preschoolers are, on the average, in child care for a large chunk of their little lives; a 1990 study found that more than half of child-care children were in child care for 35 hours a week or more. Of school-age kids, every week an estimated 5 million come home to empty houses.

We are engaged in a vast and radical experiment on our children. We are betting, against the wisdom of the ages and the lessons of our own childhoods, that it does not really matter if parents leave to others the quotidian business of raising their young. The increasing evidence is that this is wrong. While it may sometimes be necessary for both parents to work full time, it is undeniably better for children that they be raised in their own homes, mostly by their own parents.

As the White House's data sheet noted, children in child-care programs are not, in a great many cases, well cared for. One four-year study of child-care centers rated only one out of seven as of good quality. This absence of quality reaches catastrophic levels in the care of poor children. In the bland bureaucratized of one report: "Many children living in poverty receive child care that, at best, does not support their optimal development and, at worst, may compromise their health and safety."

Most parents know the obvious



BY JOHN OVERTON

In 22 percent of families where both parents work, the parents still care for their children themselves.

truth, and they refuse to trust the raising of their children to the kindness and competence of strangers. In 22 percent of families where both parents work, the parents still care for their children themselves. When they turn to others, 25 percent use relatives, 17 percent use babysitters or nannies who mind the children in the sitters' own homes, and 5 percent use sitters or nannies in their own homes. Only 30 percent choose child-care centers.

So, what would an intelligent child-care policy look like? It would seek to strongly discourage out-of-wedlock births. It would seek to strongly reinforce the idea that it primarily takes not a village but parents—two of them—to raise a child. It would offer help for parents who must work, but it would send an unmistakable message that, whenever possible, it is better that one parent stays home with the kids.

The policy put forward by the

Clinton administration last week falls this. The main proposal, to increase funding for child-care block grants to the states for more subsidized child care for poor children, is a good and necessary idea. And it is not a bad thing to provide more after-school programs for kids, or to give businesses tax credits for child-care programs, or to enforce higher standards for health and safety in child-care centers.

But the policy as a whole is irrationally biased toward the form of child care most parents like least—institutionalized group care—and against what most parents want most: to be able to afford to have one parent stay home. This bias is most obvious in the proposal to offer tax credits of up to 50 percent of child-care expenses to low- and middle-income two-worker families—but nothing to families who keep a parent at home. Why does the administration seek an eco-

nomic incentive for parents to choose work over child-rearing?

It doesn't, says Bruce Reed, the president's domestic policy adviser. But extending tax credits to all families with children would be awfully expensive, Reed worries. He's right. But if the administration is serious about the best interests of the children, it will correct the anti-home-care bias in its policy.

One possibility would be to enlarge the \$500-per-child tax credit signed into last year's budget law. Another would be to give a parent who stays at home a tax rebate for at least the early years of a child's life, in partial reimbursement for the income sacrificed by the parent's lost job. Another is "income splitting," in which a one-income family may, for tax purposes, divide the income between husband and wife, both thus bumping down to lower tax brackets. Reed says the White House is "completely open to ideas on how best to help families where one parent decides to stay home with the children." He should be taken at his word and tested.

Michael Kelly is a senior writer for National Journal.