

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Emil E. Parker/OPD/EOP, Emily Bromberg/WHO/EOP, Barbara Chow/OMB/EOP

cc: Barry White/OMB/EOP, Keith J. Fontenot/OMB/EOP, Matthew McKearn/OMB/EOP, Sandra Yamin/OMB/EOP

Subject: opener for CSE dialogue

The following is a one-pager on simplifying the child support funding structure which reflects the commitment in the Budget to examine this issue and to propose legislation. It assumes enactment of the other CSE legislative proposals in the Budget: 1) conform paternity testing match to the administrative match rate; and 2) repeal the hold harmless provision.

Please let us know what you think of this proposal and your thoughts on next steps for bring HHS and others into the process. We would like to meet on this early next week.



leg_prop.wpd

Emily
first mtg = no paper
can we get HHS to do
this - set up mtg

Simplifying the Child Support Enforcement Funding Structure

The FY 1999 Budget lays out the current complexity of the Child Support Enforcement (CSE) funding structure as well as some of the unintended incentives for the creation of State-only programs. States currently get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government. In addition to making some preliminary simplifications, the Budget promises to, "hold a dialogue with the stakeholders of the child support program to look at ways to address these problems" and to prepare legislation taking into account these findings.

Towards this end, we are looking for a proposal that: 1) simplifies the CSE funding structure; 2) gives State CSE programs greater flexibility; 3) eliminates financial incentives for the creation of State-only programs; 4) does not decrease the amount of child support collected; 5) maintains critical interstate processes and standards; and 6) is cost neutral.

The following proposal provides a basis for discussion with stakeholders. It would be cost-neutral and would further simplify the child support financing structure into an 1) open-ended grant, and 2) incentive funds:

- States would be allowed to keep all TANF collections (including the Federal share);
- The current incentive payment structure would be maintained, with formula modifications consistent with the Administration's report on incentive funding;
- The Federal administrative match to States would be adjusted by the estimated amount of the Federal share of collections that States would now be able to keep, resulting in a **cost-neutral swap**.

Using state specific estimates?

In FY 1999, the Federal-share of collections should be equal to about 39 percent of estimated CSE costs.

compared to 57% over

39/57 = 76?

Allowing States to keep all TANF collections (both State and Federal shares) would provide almost 76 percent of the resources necessary to support their estimated FY 1999 administrative costs.

This proposal would provide open-ended Federal financial participation that would cover 39 percent of costs in FY 1999, including both the administrative grant, enhanced ADP funds, and incentive funds. By FY 2003, Federal support would grow to an estimated effective match rate of 44 percent as the result of estimated increases in incentive payments. When Federal payments are combined with all TANF collections and existing State user fees, total resources for CSE would provide about 108 percent of anticipated child support costs in FY 1999.

state
specific?

This proposal would not decrease expected CSE resources available to States. It would simplify the flow of funds and better reflect the new relationship between the Federal and State governments established in welfare reform. This proposal would give States additional flexibility to design their own CSE programs, including passing through the full amount of child support to families. In addition, it would increase the incentives for States to serve TANF cases by more than doubling the amount that they would get to keep if they increased TANF-related collections. Finally, it would eliminate the incentive for States to create State-only programs solely to increase their share of TANF collections. States would still be able to set up State-only programs at no additional cost to the Federal government.

28-29% match

? fees

Emill's Q

- ① Will it make it more likely for states to ignore the hard to serve?
 - ② Will it weaken standing of CSE on Hill
- if states increase collections
feds can't benefit
(pull deficit budget off coalition)



Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP
Subject: Here's the child support language OMB sent HHS Friday night

We managed to push them pretty far, I think, although they pushed back a bit on the legislation issue (see third graph). I believe this does not commit us to send legislation to the Hill -- we only prepare legislation if we can get members of Congress to work with us on it.

The Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains ~~needlessly~~ complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance ~~packages~~ for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government. ~~This makes it difficult~~ The need to share collections under both prior and current law may serve as a disincentive for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve TANF needy families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will hold begin a dialogue with the stakeholders of the child support program to look at ways to address these problems, and in working with members of Congress will prepare legislation to be transmitted to Congress later this Spring. The Budget would also take a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

Conforming paternity testing payments with the basic administrative match rate will simplify the funding structure and greatly increase the incentive for States to control paternity testing costs. These costs vary enormously from State to State. Paternity establishment is a vital step

in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive payment formula, we believe that the right incentives are in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.

establishment authority and inclusion of paternity establishment in the child support incentive payment formula, we believe that the right incentives are in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

\$40

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

\$250

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.



Cynthia A. Rice

01/09/98 05:30:23 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc:
bcc: Records Management
Subject: Re: Please look at this child support proposal

The enhanced match was added in the Family Support Act when states were first required to meet federal standards for establishing paternities, so it pre-dates us. I think we can argue that the enhanced match for these blood tests was necessary to get states to begin testing, but is no longer needed (this proposal will drop the federal match from 90 to 66%, the percent we pay for all child support enforcement costs). I'm not wild about it but I think we can justify it.

OMB may push back on our proposal to say we "will invite Congress to work together to prepare legislation" instead of "will prepare legislation to be transmitted to Congress." But I'll send this to them and let's see what they say.

Bruce N. Reed

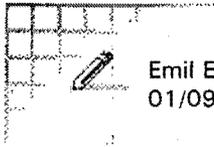


Bruce N. Reed
01/09/98 05:13:37 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
Subject: Re: Please look at this child support proposal

I guess that's OK. Was the enhanced match for paternity establishment a Clinton achievement, or does that pre-date us?



Emil E. Parker
01/09/98 05:08:20 PM

Record Type: Record

To: Edwin Lau/OMB/EOP
cc: Barbara Chow/OMB/EOP
bcc: Cynthia A. Rice/OPD/EOP
Subject: Re: CSE policy

1. Please strike the clause in the second paragraph that reads "makes it difficult for States to pass through the full amount of child support to families..."

This clause is a bit misleading. The current structure may not be as pass-through friendly as one in which States retain 100 percent of TANF collections, but the paragraph primarily discusses the differences between TANF and AFDC, and it is not clear that passing through 100 percent of the collection is any more difficult under current as opposed to prior law.

Moreover, I am not convinced that States would pass through a higher percentage of child support to families if they (States) retained 100 percent of TANF collections. Under current law, States have the option of passing through 100 percent of the child support collected and reducing the TANF benefit on a dollar for dollar basis. Unless there is evidence concerning the effect of this potential change on State pass-through policy, the clause should be dropped.

2. In the first sentence of the third paragraph, between "and" and "prepare," please add the following: ", in consultation with these interested parties,"

3. In that same sentence, strike "to be transmitted to Congress later." The clause would then read "and, in consultation with these interested parties, prepare legislation this spring."

Thank you; I apologize for the delay in getting these comments to you.
Edwin Lau

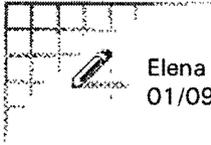

Edwin Lau

01/09/98 01:44:17 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Barry White/OMB/EOP, Sandra Yamin/OMB/EOP
Subject: CSE policy

The following is a description of the CSE policy. We wanted to run this by all of you before sharing it with HHS:



Elena Kagan
01/09/98 10:53:25 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: OMB's latest on child support budget proposal 

sounds generally ok, though I would say that we'll work with Congress on legislation, rather than send it ourselves.

Message Copied To:

Bruce N. Reed/OPD/EOP
Emily Bromberg/WHO/EOP
Emil E. Parker/OPD/EOP
Diana Fortuna/OPD/EOP
Andrea Kane/OPD/EOP

Comments
by 4:00

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Barry White/OMB/EOP, Sandra Yamin/OMB/EOP
Subject: CSE policy

The following is a description of the CSE policy. We wanted to run this by all of you before sharing it with HHS:

The Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains ~~needlessly~~ complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance ~~packages~~ ^{programs} for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government.

This makes it difficult for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve ~~TANF~~ families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will begin a dialogue with the stakeholders of the child support program to look at ways to address these problems, and ^{will invite Congress to work together to} prepare legislation ~~to be transmitted to Congress~~ later ~~this Spring~~. The Budget would also take a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

Conforming paternity testing payments with the basic administrative match rate will simplify the funding structure and greatly increase the incentive for States to control paternity testing costs. These costs vary enormously from State to State. Paternity establishment is a vital step in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive payment formula, we believe that the right incentives are in place to maximize the

The current structure may ~~work~~ as a

this year

needed

establishment of paternities, *without an enhanced match for paternity testing payments*

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.

Message Sent To:

Cynthia A. Rice/OPD/EOP
Keith J. Fontenot/OMB/EOP
Emily Bromberg/WHO/EOP
Emil E. Parker/OPD/EOP
Barbara Chow/OMB/EOP

Child Support Enforcement Financing. The budget proposes to turn the child support financing structure into a combination grant and incentive fund. Currently, States receive Federal payments at different match rates as well as Federal incentive payments. States also levy user fees and keep part of their TANF-related collections, while returning part of them to the Federal government.

still in dispute
workin
MOMB
on new
lang

The budget allows States to keep all TANF-related collections and no longer subjects them to Federal match requirements. States could pass these collections on to families or use them in the TANF program. The budget maintains the current incentive payment structure, but proposes formula modifications tied to performance (consistent with the Health and Human Services Department's (HHS) 1997 report on incentive funding), and requires States to maintain State spending at least at 1997 levels. Thus, the budget gives States more flexibility and control over their program, and States will have more incentive to go after TANF collections because they can keep whatever they collect.

The budget also requires States to collect at least a \$25 user fee from non-custodial parents involved in non-TANF cases, and gives them the flexibility to collect more, on a sliding scale based on (?). States could pay the fee themselves, but the budget would cut the basic State grant by \$60 million a year to reflect the user fee requirement.

Under current law, States get resources equal to about 116 percent of what they need to run their State Child Support Programs. The budget would force non-custodial parents in non-TANF cases to pay a small portion of the administrative cost of handling their cases. Even if all States paid the user fee themselves, they still would have resources equal to 115 percent of their program costs.

Allocation of Administrative Costs Among Welfare Programs. The budget proposes to address projected Federal cost increases in Food Stamps and Medicaid that arise from changes in the way States charge costs to the Federal Government to administer these programs as well as TANF.

Before welfare reform, States charged most common costs of the three programs to TANF's predecessor, Aid to Families With Dependent Children (AFDC). With TANF -- which consolidated cash welfare assistance and related programs and limited the amount of funds that could go for administrative purposes -- many States have sought to charge fewer of their expenses to TANF and more to Food Stamps and Medicaid, which still provide open-ended matching funds for State administrative costs.

To date, HHS has not approved State requests to change their cost allocation plans in order to increase administrative reimbursements under Food Stamp and Medicaid. Neither the Administration nor Congress envisioned such cost increases -- which would exceed a projected \$500 million a year -- in crafting welfare reform.

In 1999, the Administration plans to let States change their cost allocation plans to charge more of their common administrative costs to Food Stamps and Medicaid. But to prevent Federal

104TH CONGRESS }
2d Session

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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

1996 GREEN BOOK

BACKGROUND MATERIAL AND DATA ON PRO-
GRAMS WITHIN THE JURISDICTION OF THE
COMMITTEE ON WAYS AND MEANS



NOVEMBER 4, 1996

Prepared for the use of Members of the Committee on Ways and Means
by members of its staff. This document has not been officially approved
by the Committee and may not reflect the views of its Members

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tion for years after 1984, each parent may claim the medical expenses that he or she pays for the child.

1986

Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986, included one child support enforcement amendment prohibiting the retroactive modification of child support awards. Under this new requirement, State laws must provide for either parent to apply for modification of an existing order with notice provided to the other parent. No modification is permitted before the date of this notification.

1987

Public Law 100-203, the Omnibus Budget Reconciliation Act of 1987, required States to provide child support enforcement services to all families with an absent parent who receives Medicaid and have assigned their support rights to the State, regardless of whether they are receiving AFDC.

1988

Public Law 100-485, the Family Support Act of 1988, emphasized the duties of parents to work and support their children and, in particular, emphasized child support enforcement as the first line of defense against welfare dependence. The key child support provisions include:

Guidelines for child support awards

Judges and other officials are required to use State guidelines for child support unless they rebut the guidelines by a written finding that applying them would be unjust or inappropriate in a particular case. States must review guidelines for awards every four years. Beginning 5 years after enactment, States generally must review and adjust individual case awards every 3 years for AFDC cases. The same applies to other IV-D cases, except review and adjustment must be at the request of a parent.

Establishment of paternity

States are required to meet Federal standards for the establishment of paternity. The primary standard relates to the percentage obtained by dividing the number of children in the State who are born out of wedlock, are receiving cash benefits or IV-D child support services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving cash benefits or IV-D child support services. To meet Federal requirements, this percentage in a State must: (1) be at least 50 percent; (2) be at least equal to the average for all States; or (3) have increased by 3 percentage points from fiscal years 1988 to 1991 and by 3 percentage points each year thereafter. States are mandated to require all parties in a contested paternity case to take a genetic test upon request of any party. The Federal matching rate for laboratory testing to establish paternity is set at 90 percent.

Child Support Enforcement

Revised?

The Budget strengthens the Child Support system by taking a first step towards simplifying the child support funding structure by: 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

Under current law, States have resources equal to about 110 percent of the amount that they currently spend on their State Child Support programs leading to an estimated surplus to States of about \$380 million in FY 1998. The Budget reduces this windfall by \$300 million over five years, which is less than two percent of program costs.

Paternity Match Rate

Currently, the Federal government pays 90 percent of the laboratory costs involved in paternity testing. The Budget proposes to reimburse these costs at the basic administrative match rate of 66 percent. This change would save the Federal government about \$40 million over five years.

Conforming the paternity testing match rate helps to simplify the child support funding structure by reducing the number of different Federal matching rates. It should not overly burden States given the decreasing cost of paternity establishment testing, and it gives States an added incentive to control costs related to paternity establishment. Welfare reform expanded voluntary paternity establishment authority and included paternity establishment in the child support incentive payment formula. Paternity establishment is a vital step in establishing and collecting support orders. The right incentives are already in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

Hold Harmless Provision

The hold harmless provision, enacted in welfare reform, guarantees States their FY 1995 State share of TANF-related collections regardless of their level of performance. The Budget proposes to repeal this provision. This change would save the Federal government about \$260 million over five years.

The hold harmless provision was put in place to protect States from any loss resulting from the new Family First distribution rules. TANF collections are linked to a variety of factors, however, including TANF time limits and State performance. In FY 1995, States collected, on average, 13.6 percent of AFDC and Foster Care assistance payments through the child support system. There is room for improvement. Elimination of this provision provides poorly performing States with an incentive to increase their TANF-related collections.

The funding structure of the CSE program is complicated and it should be further simplified in order to give States more flexibility and to eliminate an unintended incentive for States to create "State-only" programs in order to keep the Federal share of child support collections. The Administration will hold a dialogue with the stakeholders of the child support program to look at additional ways to simplify and strengthen the child support funding structure, and in working with members of Congress, will prepare legislation.

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Emil E. Parker/OPD/EOP, Emily Bromberg/WHO/EOP, Barbara Chow/OMB/EOP

cc: Barry White/OMB/EOP, Keith J. Fontenot/OMB/EOP, Matthew McKearn/OMB/EOP, Sandra Yamin/OMB/EOP

Subject: opener for CSE dialogue

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Please let us know what you think of this proposal and your thoughts on next steps for bring HHS and others into the process. We would like to meet on this early next week.



leg_prop.wpd

Simplifying the Child Support Enforcement Funding Structure

The FY 1999 Budget lays out the current complexity of the Child Support Enforcement (CSE) funding structure as well as some of the unintended incentives for the creation of State-only programs. States currently get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government. In addition to making some preliminary simplifications, the Budget promises to, "hold a dialogue with the stakeholders of the child support program to look at ways to address these problems" and to prepare legislation taking into account these findings.

Towards this end, we are looking for a proposal that: 1) simplifies the CSE funding structure; 2) gives State CSE programs greater flexibility; 3) eliminates financial incentives for the creation of State-only programs; 4) does not decrease the amount of child support collected; 5) maintains critical interstate processes and standards; and 6) is cost neutral.

The following proposal provides a basis for discussion with stakeholders. It would be cost-neutral and would further simplify the child support financing structure into an 1) open-ended grant, and 2) incentive funds:

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Using state specific estimates?

In FY 1999, the Federal-share of collections should be equal to about 39 percent of estimated CSE costs.

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Allowing States to keep all TANF collections (both State and Federal shares) would provide almost 76 percent of the resources necessary to support their estimated FY 1999 administrative costs.

This proposal would provide open-ended Federal financial participation that would cover 39 percent of costs in FY 1999, including both the administrative grant, enhanced ADP funds, and incentive funds. By FY 2003, Federal support would grow to an estimated effective match rate of 44 percent as the result of estimated increases in incentive payments. When Federal payments are combined with all TANF collections and existing State user fees, total resources for CSE would provide about 108 percent of anticipated child support costs in FY 1999.

state
specific?

This proposal would not decrease expected CSE resources available to States. It would simplify the flow of funds and better reflect the new relationship between the Federal and State governments established in welfare reform. This proposal would give States additional flexibility to design their own CSE programs, including passing through the full amount of child support to families. In addition, it would increase the incentives for States to serve TANF cases by more than doubling the amount that they would get to keep if they increased TANF-related collections. Finally, it would eliminate the incentive for States to create State-only programs solely to increase their share of TANF collections. States would still be able to set up State-only programs at no additional cost to the Federal government.



Cynthia A. Rice

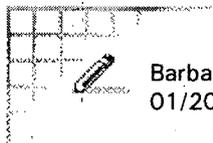
01/20/98 01:25:10 PM

Record Type: Record

To: Barbara Chow/OMB/EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: Child Support Budget Language

I believe "in working with members of Congress will prepare legislation" does not commit us to send legislation to the Hill if after consulting with stakeholders and members we decide we do not want to do so. After all, we took out of the earlier draft the "transmit to the Hill in the spring" language.

Barbara Chow



Barbara Chow
01/20/98 12:35:19 PM

Record Type: Record

To: Emil E. Parker/OPD/EOP
cc: cynthia a. rice/opd/eop, emily bromberg/who/eop, edwin lau/omb/eop, Barry White/OMB/EOP
Subject: Re: Child Support Budget Language

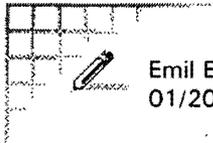
I still prefer the first formulation. The second and third formulations are slightly weaker and seem to suggest that Congress will drive our legislative proposal.

The understanding I thought we had was that the Administration would prepare legislation for transmittal to the hill in late spring, after a period of consultation with stakeholders and interested members. In my mind the current wording reflects that commitment.

If you have other suggestions that capture the gist of this agreement but clarify our intent to send up legislation after a period of consultation, I'm open to other ideas.

Message Copied To:

Emil E. Parker/OPD/EOP
Cynthia A. Rice/OPD/EOP
Emily Bromberg/WHO/EOP
Edwin Lau/OMB/EOP
Barry White/OMB/EOP



Emil E. Parker
01/20/98 12:13:41 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Barbara Chow/OMB/EOP; Emily Bromberg/WHO/EOP, Edwin Lau/OMB/EOP
bcc:
Subject: Re: Child Support Budget Language

I agree with Emily that the second proposed change is preferable to the first.

Cynthia A. Rice



Cynthia A. Rice

01/20/98 11:27:41 AM

Record Type: Record

To: Barbara Chow/OMB/EOP, Emil E. Parker/OPD/EOP, Emily Bromberg/WHO/EOP
cc: Edwin Lau/OMB/EOP
Subject: Child Support Budget Language

The sentence we all agreed to regarding child support legislative language was:

"The Administration will hold a dialogue with the stakeholders of the child support program to look at ways to address these problems, and in working with members of Congress, will prepare legislation."

I have had one of our wordsmiths suggest it would be more grammatical and clear to say:

"The Administration will hold a dialogue with the stakeholders of the child support program to look at ways to address these problems, and work with members of Congress to prepare legislation."

or

"The Administration will hold a dialogue with the stakeholders of the child support program to look at ways to address these problems, and work with members of Congress on legislation."

Are either of these changes acceptable?



16

01/20/98
11:35:57 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: Barbara Chow/OMB/EOP, Emil E. Parker/OPD/EOP, Edwin Lau/OMB/EOP

Subject: Re: Child Support Budget Language 

second two look better than the first.



Cynthia A. Rice

01/20/98 11:27:41 AM

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To: Barbara Chow/OMB/EOP, Emil E. Parker/OPD/EOP, Emily Bromberg/WHO/EOP
cc: Edwin Lau/OMB/EOP
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cc: Keith J. Fontenot/OMB/EOP, Barry White/OMB/EOP, Sandra Yamin/OMB/EOP

Subject: child support language

here is the language that we agreed to tonight. We've sent a copy to HHS for their comment:

Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government. The need to share collections under both prior and current law may serve as a disincentive for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve needy families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will hold a dialogue with the stakeholders of the child support program to look at ways to address these problems, and in working with members of Congress, will prepare legislation. The Budget also takes a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

Conforming paternity testing payments with the basic administrative match rate will simplify the funding structure and greatly increase the incentive for States to control paternity testing costs. These costs vary enormously from State to State. Paternity establishment is a vital step in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive

payment formula, we believe that the right incentives are in place to maximize the establishment of paternities. Without an enhanced match for paternity testing payments.

The hold harmless provision in welfare reform guaranteed States at least their FY 1995 State share of TANF-related collections no matter what their level of performance was. We believe that this sends States the wrong message and propose to eliminate this provision in order to assure that poorly performing States have an incentive to increase their TANF-related collections.

Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.



Cynthia A. Rice

01/09/98 07:38:26 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP
Subject: Here's the child support language OMB sent HHS Friday night

We managed to push them pretty far, I think, although they pushed back a bit on the legislation issue (see third graph). I believe this does not commit us to send legislation to the Hill -- we only prepare legislation if we can get members of Congress to work with us on it.

The Child Support Enforcement Financing

The Federal government has a strong interest in seeing that the national child support system is effective. Funding of the Child Support Enforcement (CSE) program, however, remains needlessly complicated. States get Federal payments covering administrative costs at several different matching rates. States also get Federal incentive payments, levy user fees, keep a portion of TANF-related collections, and return a portion to the Federal government.

Federal retention of TANF-related payments is a legacy of the old AFDC program in which States and the Federal government shared in the funding of AFDC, and therefore in the collection of child support for AFDC recipients. With welfare reform, States have great freedom to design assistance packages for families with dependent children. However, States must continue to share a portion of child support collections with the Federal government. ~~This makes it difficult~~ The need to share collections under both prior and current law may serve as a disincentive for States to pass through the full amount of child support to families and creates an unintended incentive for States to serve TANF needy families through programs funded only with State dollars. Spending on these "State-only" programs continues to count under the TANF maintenance of effort requirement, but child support collections on behalf of these families do not need to be shared with the Federal government.

The Administration will hold begin a dialogue with the stakeholders of the child support program to look at ways to address these problems, and in working with members of Congress will prepare legislation to be transmitted to Congress later this Spring. The Budget would also take a first step towards simplifying the child support funding structure by 1) conforming the match rate for paternity testing with the basic administrative match rate; and 2) repealing the hold harmless provision established in welfare reform.

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in establishing and collecting support orders. With the expansion of voluntary paternity establishment authority and inclusion of paternity establishment in the child support incentive payment formula, we believe that the right incentives are in place to maximize the establishment of paternities without an enhanced match for paternity testing payments.

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Taken together, these changes would equal about \$300 million over five years which is less than two percent of program costs. Under current law, States have resources equal to about 116 percent of the amount that they currently spend on their State Child Support programs.



FACSIMILE TRANSMISSION

**ADMINISTRATION FOR CHILDREN AND FAMILIES
 OFFICE OF THE ASSISTANT SECRETARY
 370 L'ENFANT PROMENADE, S.W.
 WASHINGTON, D.C. 20447**

DATE: *1/8/97*
Name: *C. Rice* *Emil Parker*
Telephone: *456-5593* *456-2809*
Fax: *456-7431* *456-2223*
Number of Pages (excluding cover): *1*

FROM: **JOHN MONAHAN**
Office of the Assistant Secretary

Telephone: (202) 401-5180
Fax: (202) 401-4678

MESSAGE:

Proposal for \$300 Million Cost Savings over 5 Years**Mandatory Review and Adjustment of Child Support Orders in TANF Cases \$ 375million**

PRWORA made State review and adjustment of child support award amounts optional. The University of Wisconsin's Institute for Research on Poverty and School of Social Work released a study on this in November 1997 and estimated that mandatory review would generate considerable savings to the Federal and State governments in TANF, Child Support, Food Stamp and Medicaid costs. The Federal share of these savings are shown below:

Child support savings	\$ 50
Medicaid savings	\$222
Food Stamp savings	\$103
TOTAL	\$375



Cynthia A. Rice

01/07/98 02:17:29 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Andrea Kane/OPD/EOP, Emily Bromberg/WHO/EOP, Emil E. Parker/OPD/EOP
cc: Laura Emmett/WHO/EOP, Diana Fortuna/OPD/EOP
Subject: Raines reaction re: yesterday's child support budget meeting

I spoke to Barbara Chow, who said Raines asked her to draft two versions of the budget description:

Version #1: expressing concerns about the problem and expressing a desire to work on it (the version we were urging yesterday);

Version #2: outlining in general terms the modified proposal we discussed yesterday, that would let states keep all child support collections in exchange for a lower match (the version Raines still prefers).

I told her that since the President's senior advisors still seem to disagree, that it appears we will have to bring them together to discuss and decide whether we need to send a memo to the President for him to decide.

Shall I go ahead and set up a Raines-Reed-Sperling meeting? OMB would of course rather have us wait until we see their paper. (I made Chow promise we'd have it no later than first thing tomorrow morning).

On a related issue, I expect to have paper shortly from HHS on their proposed substitute \$300 million saver. Very generally, I understand the proposal would a) require mandatory, rather than optional, review of child support orders every three years, which would result in more frequently updated child support orders, more collections for families as well as the federal government; and b) would revise a "hold harmless" provision related to child support incentive payments, which is garnering some states more than expected.

Child Support Enforcement Proposal

This proposal is too controversial:

- It will anger advocates, governors, and Congressional Democrats -- even Governor Tommy Thompson told us recently that there should be more federal involvement in child support.
- It reverses our policy of generally opposing block grants and specifically attacking child support collection fees (as a "tax on children").

A block grant could discourage investments in child support enforcement:

- States would have to live within a fixed budget rather than have 66 percent of their costs reimbursed by the federal government.
- States may focus on cheap, easy-to-collect cases while ignoring more difficult ones, or ignore efforts like paternity establishment which have long-run rather than immediate payoff.

A block grant may jeopardize the strong federal role in child support enforcement:

- The new welfare law requires every state to put in place tough new rules -- such as denying drivers and professional licenses to parents who don't pay and requiring centralized collections and wage withholding. A proposal to block grant child support enforcement could encourage efforts to roll back these tough new federal rules and let states set policies.

We can save \$300 million without a block grant:

- The \$300 million savings in the current proposal is not due to the block grant, but from a new requirement that states impose fees on noncustodial parents accompanied by a commensurate reduction in federal funds. This could be done within the current matching structure as well as a block grant. We could also require those opposing this policy to develop a new \$300 million offset.

We can protect against future child support losses without a block grant:

- We all agree that we must prevent states from moving families to state-only welfare programs to avoid sharing child support collections with the federal government -- that's why our proposed regulations penalize states that do so. (Currently, states must share with the federal government child support collections from TANF families but not from non-TANF families.)
- We don't need a block grant to protect future federal collections -- instead, we could let states keep all child support collections and make up the revenue by reducing the federal matching rate.

We can require states to re-invest all funds into child support without a block grant:

- Currently, states receive a federal match for the funds they spend on child support collections. They also receive incentive funds based on performance which they are not required to reinvest in the child support program. This state "profit" has been cited as a reason to block grant the program.
- There are other ways to solve this problem -- and legislation now on the Hill would require states to spend all child support incentive payments on the child support program. We could also develop additional proposals to address this problem.



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JAN 6 1998

MEMORANDUM FOR FRANKLIN RAINES

I am writing to let you know why I believe it is critical not to block grant the child support enforcement program as proposed in the FY 1999 Budget Mandatory Passback by the Office of Management and Budget. The OMB proposal could seriously threaten the bipartisan, Federal/State partnership which has supported the President's record of achievement in child support reform, jeopardize the President's commitment to strengthen the Nation's child support enforcement program, reduce child support collections, and decrease the establishment of paternities.

- o **The block grant provisions that OMB has proposed reverse the substantive direction of the President's child support enforcement reforms, which have aimed to establish a National, interstate system of support for needy families.**

A block grant funding arrangement represents a fundamental change in policy and would signal a reversal of the direction charted by the Administration toward establishing an effective interstate system of child support services. It would also imperil the ability to maintain national standards and uniformity in the long term. We also harbor concerns that this proposal would impose large inequalities from State to State.

While the OMB proposal suggests that key federal requirements for interstate case processing be retained, the proposal fails to provide the right fiscal incentives to ensure an effective interstate system. In order to achieve higher collections, states need to invest more in uniform processing and in working difficult cases like interstate cases (representing about 30 percent of the caseload) and cases requiring paternity establishment services. Reimbursing a share of expenditures creates an incentive for States to invest in these critical activities. By contrast, a fixed block grant provides no incentive for States to invest in program improvements or in tackling the most difficult cases but rather to keep expenditures low — achievable only by providing the easiest and least costly services.

Further, the flexibility inherent in any block grant would be seen as inconsistent with uniform standards and would jeopardize existing Federal statutory requirements for paternity establishment and enforcement techniques vital to ensuring strong programs.

- o **The OMB block grant proposal would undermine the broad-based, bipartisan consensus in Congress and State capitals that has supported the child support reforms championed by the President for the last five years.**

President Clinton's leadership has forged a strong national and bipartisan consensus on child support enforcement that would be undermined by the process and substance of the OMB proposal. The historic welfare reform legislation signed by the President in 1996 contained the toughest child support provisions in this country's history. Indeed, the child support provisions in the welfare legislation passed by Congress were nearly identical to those originally proposed by this Administration in 1994. They were premised on the need to maintain a Federal/State partnership and to create more uniformity in the child support system by mandating national standards throughout the country. These provisions received broad bipartisan support from Congress and State Governors. The President has also strengthened the Federal role in child support enforcement through a series of Executive Orders and the child support incentive legislation overwhelmingly approved by the House in 1997 was developed from Administration recommendations.

Introducing a block grant proposal as part of the President's budget, without any consultation with or support from key Congressional and State leaders, would signal a breach of faith with the Administration's long-standing allies in the effort to develop and enact tough child support reforms. This could also have the unintended consequence of jeopardizing the passage of the Administration's child support incentives legislation which is expected to receive favorable Senate consideration this year.

In sum, a block grant proposal is likely to be received negatively by key Congressional supporters of the past child support reforms, by states which will oppose increasing federal requirements in the context of a fixed funding stream, and by advocates as an abandonment of federal support for state reforms.

- o **The OMB proposal creates an incentive for states to focus on their easiest to serve in-state cases and thereby conflicts with the President's promise to build the toughest child support program possible to serve all children who need support.**

The commitment of the President has been to serve all children who need child support enforcement services. Both the 1993 OBRA legislation and the 1996 Welfare Act contained provisions requiring States to move toward more universal paternity establishment and continued requirements that States provide child support enforcement services to all parents that request services.

The OMB proposal discourages States from providing services to all of those in need and encourages States "creaming" of cases. First, the elimination of the administrative match provides an incentive for States to work the least costly, least labor-intensive cases and to ignore the more difficult cases which require a greater investment of resources. This would be especially harmful to cases requiring paternity and support order establishment services and cases where a parent has been successful in evading ordinary State efforts. Further, State

retention of all TANF-related collections as the sole funding stream provides an inducement for States to focus their efforts on in-State TANF cases at the expense of other families needing services, notably the working poor. Imposition of fees for non-TANF cases compounds the impact on near-poor and working poor families by discouraging services in those cases where the parents are just scraping by.

The cumulative effect of these provisions would adversely impact welfare reform's goal of assisting all at-risk, low-income families in achieving and maintaining self-sufficiency. A block grant proposal does not support the long-term investment and national focus required in child support — similar in many respects to education, job training, and other policies that provide a benefit to families in the long term from the public investment.

- o **The Administration should not be in favor of user fees that are essentially a "tax on children".**

Currently States are allowed the option of charging limited application and user fees. Few States exercise that option. Most States view such fees as counterproductive to the goal of providing services to needy families. The OMB proposal would force all States to adopt such fees or risk the loss of comparable funding levels. The Administration has gone on record during the welfare reform debate as opposing such user fees as "taxes" on children. Whether the fees are imposed on noncustodial parents or custodial parents they ultimately result in less child support going to children. States typically deduct such fees up-front from custodial parents. Such fees also often discourage poor families and those families most in need from receiving services. Welfare recipients are particularly economically vulnerable when they leave welfare and any reduction in child support payments or services upon leaving the TANF program will only make this transition more difficult. This Administration should not be in a position of reversing its position and supporting a tax on children.

- o **The block grant proposal would end the Federal share of collections and thereby forever break the connection between the success of the national child support enforcement program and increased revenues to the Federal government.**

Currently the Federal government receives a share of the TANF collections based upon the FMAP formula. As a result, when tougher child support enforcement results in increased TANF collections, the federal government shares in that success. This funding arrangement not only directly financially benefits the Federal government but also generates support with Congress and with the public for tough child support provisions. If this arrangement is ended it could erode support for the entire child support enforcement program and the program would be an easy target for future cuts in funding. Support for the national effort to track delinquent parents across State lines through the national data base and information sharing between States would also be jeopardized.

It is critical to the Administration's record of achievement and to the President's legacy that we continue the progress that we are making to ensure that every child has the support of both parents, whenever possible. While legitimate concerns may remain on some elements of child support program effectiveness and efficiency, we believe the only way to tackle these

issues is through open and dynamic dialogue with the many parties involved. We look forward to working with you on these issues in the upcoming months after budget decisions have been made. Please let me know if I can answer any further questions.



Donna E. Shalala

Monahan

- Shalita memo to Faires → later today
- We should force HHS to come up with alternate \$
- Admin on record "taxes on children"
- Politically
 - Unite everyone against
 - wrong financing mechanism
 - goal is to encourage state + local investment in collections
 - way to do that is match

OMB needs out

- HHS will do analysis + sit down + discuss CSE financing

Systems

- will get by long from Ron today

Haskins systems mtgs

1/5

Thursday a.m.

9-11 Haskins
Debrah
Doug St
Dennis Smith

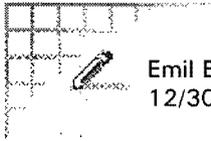
w/ 6 states

then 11- Hill
6 states
Advocates
HHS - Lauren
- John - Judd - ? Betsem
- Norm

} Discussion
of one
page

He thinks

- we're comfortable w/ Pa
- would support budget priorities
- push for change - single state
room



Emil E. Parker
12/30/97 05:17:38 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Cynthia A. Rice/OPD/EOP, Gene B. Sperling/OPD/EOP, Peter A. Weissman/OPD/EOP, Cathy R. Mays/OPD/EOP
Subject: Child support enforcement update

Cynthia asked me to update you on child support enforcement (CSE) issues in her absence.

Block grant. As you know, OMB has been assuming a child support enforcement offset of \$60 million in FY 1999 and \$300 million over five years. OMB proposes to achieve these savings by converting the CSE program, under which the Federal government reimburses States for 66 percent of their child support collection costs (without a cap) and provides incentive payments, into a block grant. Under the current structure, many States make a profit on the child support enforcement program--Federal payments (matching and incentive) and the State share of TANF collections exceed State child support enforcement spending--making the program an attractive target for savings.

A proposal to convert the CSE program into a block grant would likely be poorly received by both States and child support advocates. The OMB proposal would endanger the Administration's hard-won and well-deserved legacy in the child support area; I also doubt the Congressional Republicans would embrace this approach. Cynthia and I are in complete agreement that there are better ways to achieve this relatively modest level of savings from the CSE program, and we have urged HHS to develop an alternative package that generates comparable savings.

With Barbara Chow away for vacation, I have been unable to determine the status of the OMB proposal. There is a rumor that OMB is no longer carrying the \$300 million in savings but that the policy change remains very much alive. To my knowledge, none of the principals in the budget process except possibly Director Raines has focused on this issue. To put forward a block grant proposal without any external or even much internal vetting would be most unwise.

Systems penalty. On another note, HHS staff met with Ron Haskins today to provide technical assistance regarding his child support enforcement automated systems penalty proposal. His approach is quite similar to the options we have been discussing internally--replacing the current penalty (termination of Federal child support enforcement and possibly TANF funding) for failure to put an automated system in place with a smaller sanction. The proposed penalty would start at 4 percent of FY 1997 Federal CSE matching funds and rise by 4 percentage points each year, up to a high of 20 percent in the fifth year

and thereafter. We were contemplating somewhat larger penalties--5 or 10 percent. Under the Haskins proposal, a State would earn back 75 percent of the most recent penalty (but not earlier penalties) once its system was certified--this is also similar in principle to the approach under consideration internally.

Haskins was receptive to the HHS comments, which were largely technical in nature (e.g., would the new reduced penalty apply to failure to enact required legislation, as well as to automated system development--answer was no; could States enter into multi-year corrective action plans--answer was yes). He intends to hold a meeting including Republican and Democratic House and Senate staff, States, advocates and the Administration on January 8 to discuss his systems penalty proposal. Health and Human Services would like to arrive at a firm Administration position prior to that meeting; they suggest a pre-meeting on January 6.

Please let me know if you have questions.



ADMINISTRATION FOR CHILDREN AND FAMILIES

MARY COHEN 401-5175

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

TO: EMIL PARKER
CYNTHIA RICE

DATE: 12/19/97

CNER + 2

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

JOHN MONAHAN WANTED TO SHARE SOME
ADDITIONAL POINTS ON CHILD SUPPORT
PROPOSAL -- QUICK LIST ATTACHED

Mary Cohen
401-5175

DRAFT

Child Support Block Grant:

- o would destroy any assurance that all those in need would receive services. The child support program serves all families, and is working. It would jeopardize the President's ability to take credit for a program that helps middle class people.
- o fundamentally conflicts with the President's promise, and bi-partisan commitment, to build the toughest child support program ever.
- o encourages States to focus on easy, paying cases while ignoring those parents who have been the most successful in evading their responsibilities.
- o is inconsistent with the need for nationwide standards critical to discourage moving from State to State to evade child support responsibilities.
- o undermines States efforts to invest in automating the child support process and other critical enforcement tools.
- o flexibility inherent in any block grant would jeopardize existing Federal statutory requirements on States that assure strong programs
- o is based on an illogical assumption that you can reduce administrative burden by eliminating in-State process requirements while keeping interstate standardization. The interstate problem stems from parents moving from State to State. However, the way to reduce the impact of such moves requires case processing to be standardized both in State and between States.
- o is based on the false assumption that collections for TANF cases would increase by 20%, contrary to budget estimates which are now flatlining TANF collections.
- o will result in a decline in paternity establishment, the essential first ingredient in child support enforcement, because the payoff in paternity establishment is not immediate and assumes an upfront investment of resources.
- o would adversely impact the welfare reform's goal of assisting at-risk families in achieving and maintaining self-sufficiency.
- o would seriously jeopardize Federal-level efforts to address interstate issues through national databases and information sharing because of loss of resources

derived from the Federal share of collections.

- o would undermine State efforts to invest in automation and other activity critical to improving child support collection.
- o is a fundamental change in program financing and any program financing options warrant careful consideration and extensive consultation with program stakeholders and partners.
- o does not support the long-term investment and national focus required in child support similar in many respects to education, job training and other policies that help families support their children where there is an expectation that society would be better off in the long run because of the government investment.

User fees:

- o The Administration is on record that the oft-proposed Republican proposal for a user fee is essentially a "tax" on children.

Summary of Passback

Program financing would be through a basic grant and incentive funds. States would keep all TANF-related collections (including the Federal share); Federal matching of State program costs would be eliminated. Incentives would be paid consistent with Administration's report. States would be required to collect at least a \$25 user fee from non-custodial parents in non-TANF cases and to maintain FY1999 States funding levels. The proposal includes three options involving minor adjustments to this basic approach.

ACF Response

- Any fundamental change in program financing warrants careful consideration and extensive consultation with program stakeholders and partners which is impossible under the imposed one-day turnaround. Far-reaching changes to the IV-D program were enacted under welfare reform just last year, and only after extensive consultation over several years.
- The proposal is fundamentally in conflict with the President's promise to children to build the toughest child support program ever, since it no longer invests in strengthening the program but rather encourages States to focus on the least costly, least labor-intensive cases and to ignore those not in need of help—those in which paternity has not been established or the obligated parent has been the most successful in evading enforcement efforts.
- At the Blair House Conference on Welfare Reform, the consensus of the President and the Governors was that child support should not be block granted and that a strong child support program with national standard was critical to ensure that those who owe child support cannot evade meeting their responsibilities by moving from State to State.
- The Administration opposed user fees during the welfare reform debate as a "tax" on children since fees ultimately reduce support paid to the family and discourage needy families from seeking services.
- The proposal would not reduce the administrative burden on States nor increase State flexibility because process requirements are in statute, not regulations. There is no basis for the assumption that there will be substantial increases in TANF collections simply because States would no longer have to share collections with the Federal government.

DRAFT

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ADMINISTRATION FOR CHILDREN AND FAMILIES

OLAB

Office Of Legislative Affairs and Budget

7th Floor Aerospace Building
901 D Street, S.W.
Washington, D.C. 20447
FAX: 202-401-4562

TO: Edmil Parker
Cynthia Rice

FROM: Mary Cohen

OFFICE: _____

PHONE: 401-5175

PHONE: _____

FAX: 456-2223
456-7431

COVER + 1

REMARKS:

Attached is ACF's draft response
to the budget passback and check-suggestion. John
Thomson asked that I send this to you.

DRAFT

Summary of Passback

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Cynthia A. Rice

12/16/97 06:20:41 PM

Record Type: Record

To: Emil E. Parker/OPD/EOP, Emily Bromberg/WHO/EOP, Barbara D. Woolley/WHO/EOP

cc:

Subject: Update on Child Support Enforcement Budget Options

OMB has sent to HHS for comment three child support options, saying "a decision has been made to include the following items on a list of potential proposals for the FY 1999 budget."

All the options would convert child support enforcement funding into a block grant and require states to impose a \$25 collection fee on non-custodial parents from non-welfare families (states could pass legislation to reduce or increase this fee).

Converting funding to a block grant may discourage state spending to collect support for families, since states will have to pay 100% of any "extra" costs. The fee collection position is a reversal for the Administration, which has apparently opposed such fees in the past, and would likely be opposed by women's and other advocacy groups (who believe that since so many non-custodial parents don't pay the full amount owed, families will end up with \$25 less per month in child support, since the fee will be deducted from the less-than-full-amount paid).

The options would also let states keep all the collections from welfare families and, as in current law, would distribute incentive funds based on performance.

Three Specific Options: Within this framework, OMB has proposed three options:

Option #1 would set the block grant at a level to save about \$300 million, the amount that states would collect through the new \$25 fees. In other words, since states would collect \$300 million in fees, the federal government would reduce its contribution to the states by \$300 million.

Option #2 would set the block grant at a level to save about \$1.8 billion.

Option #3 would set the block grant at a level to save about \$3.0 billion.

Not Included is an option we had discussed verbally, which we found more acceptable, which would allowed states to keep child support collections from welfare families and reduced the current match from 66 percent to a lower amount.

**FY 1999 Budget
Mandatory Passback
Department of Health and Human Services,
Administration on Children and Families**

A decision has been made to include the following items on a list of potential proposals for the FY 1999 budget. No final decisions will be made until after a series of White House meetings and consideration of the agency's views. If HHS has any thoughts about this policy that you believe should be considered as we review these proposals, please send a letter to the Program Associate Director Barbara Chow, delivered to the Human Resource Division by COB Wednesday, December 17.

Child Support Enforcement

The current child support financing system is complex, with States receiving Federal matches at different rates for general administrative costs, systems development, and paternity determination. States also receive Federal incentive payments, levy user fees, and retain a portion of TANF-related collections. At the same time, States must return a portion of the TANF-related collections back to the Federal government. This proposal would simplify the child support financing structure into 1) a basic grant, and 2) incentive funds.

Under this proposal, States would be allowed to keep all TANF-related collections (including the Federal share) and would no longer be subject to Federal match requirements. The current incentive payment structure would be maintained, with formula modifications consistent with the Administration's report on incentive funding. In order to ensure that financial resources are available to support child support caseload growth, States would be required to collect at least a \$25 user fee from non-custodial parents involved in non-TANF cases. States would have the flexibility to collect more on a sliding scale basis, or could pass legislation to reduce the user fee. States would be required to maintain State spending at least at FY 1997 levels.

The new child support financing system would provide States with the necessary resources to continue providing child support services. In FY 1999, States are expected to receive, in total, substantially more than what they are expected to spend on child support enforcement. Three proposals are currently under consideration for the FY 1999 funding level:

Option one would provide the same level of Federal funding estimated in the FY 1998 baseline, with a slight reduction to reflect the requirement of State user fees. Under this option, States could expect a substantial windfall of as much as \$1 billion assuming that States increase TANF-related collections by about 20 percent since they can now keep 100 percent of collections.

The second option would reduce Federal funding to reflect the assumption of increased TANF-related collections. In this case, States could still receive substantially more than they need to spend in FY 1999. The third option would adjust FY 1999 funding to bring it more in line with States' child support funding needs by providing a total grant of \$1.1 billion (including incentive funds) which would grow at an annual rate of three percent. This proposal could allow States to retain substantial surplus funds in FY 1999 under the assumption of improved TANF collections.

In order to maintain Federal standards and promote efficiency of collections, States would only receive their incentive payment and their full administrative grant if their automated system is certified. Funds that are withheld from States in non-compliance would be redistributed to other States according to a formula to be determined by HHS. HHS would also review all current rules to further increase State flexibility by reducing process requirements and moving towards an outcome-oriented system, but would maintain key Federal requirements for computer systems, interstate processes, and other areas where program consistency is desirable. Taken together, these changes will reduce the administrative burden on States and increase State flexibility, while continuing to ensure resources for the delivery of valuable child support services.

FY 1999 Budget
Mandatory Passback
Department of Health and Human Services,
Administration on Children and Families

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DATE: _____

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

PHONE: (202) 690-6311

FAX: (202) 690-8425

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

FROM:

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

- MARY M. BOURDETTE
- BARBARA P. CLARK
- GREG JONES
- PATRICIA SAVAGE
- LAUREN GRIFFIN
- LULA BARNES

TOTAL PAGES
 INCLUDING COVER) : 3

REMARKS:

that accrued before the family received assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 464, as accruing in the following order:

"(I) To the period after the family ceased to receive assistance.

"(II) To the period before the family received assistance.

"(III) To the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(33).

"(5) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996); and

"(B) foster care maintenance payments under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is collected.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 1905(b), as in effect on September 30, 1996) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity

Act of 1996), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.

(e) GAP PAYMENTS NOT SUBJECT TO DISTRIBUTION UNDER THIS SECTION.—At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 402(a)(28), as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. For purposes of subsection (d), the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.”

(b) CONFORMING AMENDMENTS.—

(1) Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking “section 457(b)(4) or (d)(3)” and inserting “section 457”.

(2) Section 454 (42 U.S.C. 654) is amended—

(A) in paragraph (11)—

(i) by striking “(11)” and inserting “(11)(A)”; and

(ii) by inserting after the semicolon “and”; and

(B) by redesignating paragraph (12) as subparagraph

(B) of paragraph (11).

(c) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

(2) **CONFORMING AMENDMENTS.**—The amendments made by subsection (b)(2) shall become effective on the date of the enactment of this Act.

SEC. 303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 301(b) of this Act, is amended—

(1) by striking “and” at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting “, and”; and

(3) by adding after paragraph (25) the following new paragraph:

“(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

“(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

“(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

“(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.”

42 USC 657 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997. 42 USC 654 note

SEC. 304. RIGHTS TO NOTIFICATION OF HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 302(b)(2) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

“(12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan—

“(A) with notice of all proceedings in which support obligations might be established or modified; and

“(B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997. 42 USC 654 note

Subtitle B—Locate and Case Tracking

SEC. 311. STATE CASE REGISTRY.

Section 454A, as added by section 344(a)(2) of this Act, is amended by adding at the end the following new subsections:

(e) STATE CASE REGISTRY.—

“(1) **CONTENTS.**—The automated system required by this section shall include a registry (which shall be known as the ‘State case registry’) that contains records with respect to—

“(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

“(B) each support order established or modified in the State on or after October 1, 1998.

“(2) **LINKING OF LOCAL REGISTRIES.**—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

“(3) **USE OF STANDARDIZED DATA ELEMENTS.**—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on case status) as the Secretary may require.

“(4) **PAYMENT RECORDS.**—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

“(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;



Cynthia A. Rice

12/04/97 04:40:44 PM

Record Type: Record

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

cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP, Laura Emmett/WHO/EOP

Subject: I need your input on child support enforcement

I need your input on several areas of child support enforcement:

1. Raines Child Support Idea

I've spoken with OMB at greater length about this issue. Attached is an analysis of the options and what I see as their advantages and disadvantages. My questions are:

a.) Do you agree that we should oppose including these options in the budget?

I do oppose converting to a block grant -- but I do think a version Keith and I devised ("revised match") may be worth pursuing -- see attached.

b.) Should we should have a broader process to consider them i.e., a DPC-OMB-IGA-NEC mtg? I do, because I fear that unless people understand what these policies do, they will be tempted simply by the prospect of a \$1.8 to \$3.0 billion saver.



cse1204.wpd

2. Child Support Computer Systems Penalty Legislation

As you know, I have brought NEC, HHS, and OMB together several times since September to discuss the child support computer systems situation and possible solutions. Many of the issues are analogous to the penalty issues we discussed in the TANF regulations. With some pushing from me and from OMB, HHS now agrees that a new penalty structure should include:

- 1) Penalties that are simple to administer and automatic, with little HHS discretion.
- 2) An up-front penalty imposed immediately upon failure, which should be large enough to motivate states to improve their systems development, but not so large as to severely disrupt states' child support efforts or to lead states to believe the penalty would never be imposed.
- 3) The penalties should include an incentive for early completion, either by providing an earn-back of the initial penalty or by imposing subsequent incremental penalties, or both.
- 4) A "system completion plan" should be signed by the governor.
- 5) HHS should retain the ability to disapprove the state child support plan and withhold all federal child support funds.

HHS has prepared several, more detailed options based on these principles. We have not authorized HHS to share any of these options with the Hill because 1) we hadn't run them up the flagpole; 2) Haskins offered to take a first cut at drafting and to send it to us for our reaction. Monahan and others from HHS have met with Haskins and company to provide background information on the problem and to share our general principles (mainly to tell Ron -- much to his surprise -- that we think giving HHS a lot of discretion is a bad idea).

Do you think we should be taking a more pro-active approach? Any comments/ suggestions?

You should know that we will have a delicate line to walk in our budget, even without including the new Raines idea. Here's why. If the budget assumes we will withhold all federal child support funds from states without computer systems, it will show child support savings, giving any legislative fix a cost -- not what we want. If the budget assumes no savings from denying funds to states without computer systems, then we have to explain why this doesn't fit with our "get tough" rhetoric. The answer will have to hinge on the length of the administrative and judicial appeal process (up to three years) with an assumption that by the end of those three years all states will have in place the required state wide computer systems.

3. Response to Senator Feinstein

As you may recall, Senator Feinstein raised the idea of a six month moratorium on child support penalties when she met with the President on crime issues in September, and then she subsequently sent him a letter. I wanted to wait until the end of the session to reply to her.... and finally I've drafted the attached. I think similar language can be used in replies to Rep. Clay Shaw (who sent a letter to the President arguing against Feinstein) and to the LA County Board of Supervisors (who sent a letter making the same arguments as Feinstein). Please comment on this version, and then I will send a revised copy with the incoming letters to you via Cathy.



fein1204.wpd

4. California Letter

On November 20th, California and Lockheed Martin mutually decided to cancel their child support computer systems contract due to operational problems and cost overruns. This puts the state out of compliance with what is called the Advance Planning Document -- the plan that the state submits to HHS for approval in order to get federal funds to help pay for the computer systems costs. HHS has drafted a letter from one of their OCSE staff to the state saying that the feds will not pay for any more computer systems development until the state submits, and has approved, a new Advanced Planning Document. (The rest of federal financial support for child support enforcement will continue to be provided.) Although this letter is from a mid-level staffer, I reviewed it for content and tone and plan to show it to Emily, before telling HHS they can send it. It is in unquotable bureaucratize. **Should I do anything else? I need to respond to HHS Monday.**

Keep in mind that this letter is particular to California, because of its problems with its contractor. However, after January 1, HHS will need to send to all the states that do not have operating statewide computer systems a notice of intent to disapprove their child support enforcement plans. As you know, states without approved state plans get no federal child support dollars of any kind. However, states will continue to receive federal funds until the appeal process is concluded, which could last until 1999 (longer for judicial appeals).

5. Thompson Idea

What did you think of Gov. Thompson's idea that he and Carper and you should barnstorm the country on child support enforcement? I kind of like the idea....I think we do need to pump up the volume on this issue. **Should I try to flesh out an idea for a campaign that could be a bipartisan State of the Union announcement?**

Child Support Enforcement Restructuring

There are two separable questions involved here:

- Should we cut federal spending on child support enforcement?
- Should we restructure the current system, in which the federal government shares in state costs of collecting child support by paying about two-thirds of costs, to one in which the states receive a federal block grant?

Should we cut federal spending for child support enforcement in the FY '99 budget?

ARGUMENTS	COUNTER-ARGUMENTS
Could provide \$1.8-\$3.0 billion in savings for other Presidential initiatives	Taking funds used to obtain child support for kids in order to provide more money for kids in other ways would be robbing Peter to pay Paul.
The federal government pays more for child support than it receives in collections from states.	The federal government funds child support collection efforts to provide more support for <u>children</u> , not the federal coffers -- thus it is losing money because it is paying for a service to American families.
States are profiting from the child support enforcement system, collecting almost \$500 million more a year than their costs -- funds they do not have to spend on further child support collection activities.	The new incentive legislation which we support and is now on the Hill would require states receiving incentive funds to reinvest those funds in child support enforcement.

Should we restructure the financial contribution to child support enforcement?

Current Structure: Currently, the federal government pays 66 percent of general child support costs incurred by the states. States must provide the federal government with a share of child support collections from non-custodial parents of welfare families (to recoup the costs of welfare payments made to those families). The federal government also pays states incentive payments based on performance. Overall, the federal government loses money on child support enforcement and the state governments gain money.

Block Grant Proposal: Raines' proposal would provide states with a block grant for operating expenses and require them to maintain their current spending in exchange for being able to keep all the collections from welfare families. In addition, the feds would distribute incentive funds based on performance. The block grant amount could be set so that overall, the federal government saves money compared to current spending (OMB has drafted two versions, one which saves \$1.8 billion, and the other which saves almost \$3.0 billion, although a revenue neutral proposal could be structured). OMB envisions that while this option would provide states with less money to collect child support, they could easily make up the difference by add a fee to the child support collected from non-custodial parents of non-welfare families.

Revised Match Proposal: Another alternative would allow states to keep all the collections from welfare families, but reduce the federal match rate to a percentage lower than 66 percent to make up the difference. In addition, the feds would distribute incentive funds based on performance.

	Current Structure	Block Grant Proposal	Revised Match Proposal
Pays states incentive payments based on performance?	Yes*	Yes*	Yes*
The federal government pays a percentage of state child support collection costs:	Yes	No	Yes
The state must give the federal government a share of child support collections for welfare families.	Yes	No	No

* Bipartisan, Administration-sponsored legislation to change definition of performance on which payments are made is now on Hill and expected to pass next session. This legislation would require states to invest the child support incentive payments in child support enforcement activities, which is not now required.

	ADVANTAGES	DISADVANTAGES
Current Structure	Encourages state investment in child support enforcement, because it matches 66% of each additional dollar.	The system is a complicated combination of federal payments and collections.
	It treats fairly states in different situations -- i.e., those who already made substantial investments, and those that will make investments in the future.	There is a potential for future federal costs if states move child support paying families out of TANF into state-only programs.
Block Grant Proposal	It simplifies the federal/state payment structure.	It would be unfair to states that have not, but will, make substantial investments in child support enforcement.
	It greatly reduces the potential for future federal costs if states move child support paying families out of TANF into state-only programs.	It puts states at risk of financial costs, and may make them less eager to invest in child support enforcement and collect support for families.
		The proposal will divert the energy of the state leadership from improving child support systems to opposing this proposal.
Revised Match Proposal	Encourages state investment in child support enforcement, because it matches each additional dollar (although at a lower rate than the current 66%).	The system would be a complicated combination of federal payments and collections.
	It treats relatively fairly states in different situations -- i.e., those who already made substantial investments, and those that will make investments in the future.	The proposal will divert the energy of the state leadership from improving child support systems to opposing this proposal -- although not as much as the block grant proposal.
	It greatly reduces the potential for future federal costs if states move child support paying families out of TANF into state-only programs.	

Edwin Lau

12/08/97 12:26:24 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Keith J. Fontenot/OMB/EOP
bcc:
Subject: Re: Could you please send me 

per your request:

CHILD SUPPORT ENFORCEMENT -- FY 1998 Baseline &

	FY98
TANF-related Collections	2,696
Federal Share	1,484
State Share	1,212
Incentive payments (non-add)	437
Net Federal Share	1,047
Net Admin Expenditures	3,492
Federal Share	2,342
State Share	1,150
Net State Savings	499
Net Federal Costs	-1,295

Cynthia A. Rice



Cynthia A. Rice

12/05/97 03:59:23 PM

Record Type: Record

To: Keith J. Fontenot/OMB/EOP@EOP, Edwin Lau/OMB/EOP@EOP
cc:
Subject: Could you please send me

Just the baseline tables you had at the top of the page showing what the states spend and receive and what the feds send and receive? I'm trying to explain this to others and it's really difficult without the numbers. Or at least give me the FY 1998 numbers

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February 1998

Reprint From the
1998-99 Analysis of the Governor's Budget



Child Support Enforcement

Legislative Analyst's Office
Elizabeth G. Hill, Legislative Analyst