

3/3/97

Cynthia Smith / OMB 395-9189

- Nothing that necessarily makes it revenue neutral  
→ she wants to write in
- Put up legislative in 90 days  
→ doesn't know who Ken + Bruce are
- Would weaken paternity establishment welfare law
  - under 75% penalty
  - if bet 75-90 must show 2 prpt in order to avoid penalty

HHS says states that are high + don't improve so much will get

→ her idea: minor welfare law at future point - phase in a higher level of performance

Cynthia Smith  
~~Westfield~~

~~patents of states~~  
it weaker

~~90 days legislative solution~~

- OPM

- Hard Start

- immigrants

- budget - can web Admin provide  
Mechanism to those living SST  
for a year

- doing this through says well  
cost more

- ISTEA / transportation

- publicize s.o. else's study

→ mty w/ transport / HUD / CABO / HHS  
convened by DPC

- Privatization / FSLA

1) what is work

2) rates paid (no)

3) Voc / Pen /

→ we need to put out spin on it first

Repubs will say it's pay back to Labor

- Privatization

→ double before  
budget decided

HHS ?  
DOT Janno Lieber  
Labor Seth Harris  
HUD ?

PHOTOCOPY  
PRESERVATION

**Summary**  
**Child Support Incentive Reform Legislation**  
**September 4, 1997**

**Collections Bases.** The amount of incentive payments available to each State is based on its child support collections. The collection base includes collections made in both TANF cases and non-TANF cases. Collection in TANF and former-TANF cases are doubled in the collections base.

**Performance Measures.** The incentive system is based on five measures of each State's child support performance:

1. establishment of paternities,
2. establishment of child support orders,
3. collections on current child support due,
4. collections on past child support due, and
5. cost effectiveness.

**General Calculations.** The amount of incentive money States receive each year is based on up to 1% of the collections base for their performance on three of the measures (paternity establishment, order establishment, and collections on current support) and up to 0.75% of the collections base for performance on two of the measures (collections on arrears and cost effectiveness).

**Phase In.** The new incentive system will be phased in over several years.

**Reinvestment.** Incentive payments received by a State must be reinvested in the State child support program, broadly defined.

**Review.** By March 2002 the General Accounting Office must conduct a study of the new system and report to Congress.

**Regulations.** The Secretary must publish regulations on the new incentive system within 9 months of enactment of this legislation.

**OFFICE OF MANAGEMENT AND BUDGET**

*Legislative Reference Division  
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet

FROM: Melissa Benton 395-7887

DATE: 9/16/97 TIME: 10:45 a.m.

Pages sent (including transmittal sheet): 17

**COMMENTS:**

To follow is the draft child support incentives bill (Sponsors Shaw & Levin), to be marked up this Thursday by the Human Resources Subcommittee of House Ways & Means.

**TO:**

Cynthia Rice, DPC

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

**DRAFT**

1 **SEC. \_\_\_\_ INCENTIVE PAYMENTS TO STATES.**

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

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

6 “(a) IN GENERAL.—In addition to any other pay-  
7 ment under this part, the Secretary shall make an incen-  
8 tive payment to each State for each fiscal year in an  
9 amount determined under subsection (b).

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

11 **“(1) IN GENERAL.—**The incentive payment for  
12 a State for a fiscal year is equal to the sum of the  
13 applicable percentages (determined in accordance <sup>with</sup>  
14 paragraph (3)) of the maximum incentive amount  
15 for the State for the fiscal year, with respect to each  
16 of the following measures of State performance for  
17 the fiscal year:

18 **“(A) The paternity establishment perform-**  
19 **ance level.**

20 **“(B) The support order performance level.**

21 **“(C) The current payment performance**  
22 **level.**

23 **“(D) The arrearage payment performance**  
24 **level.**

25 **“(E) The cost-effectiveness performance**  
26 **level.**

1           “(2) MAXIMUM INCENTIVE AMOUNT.—

2           “(A) IN GENERAL.—For purposes of para-  
3 graph (1), the maximum incentive amount for  
4 a State for a fiscal year is—

5           “(i) with respect to the performance  
6 measures described in subparagraphs (A),  
7 (B), and (C) of paragraph (1), 1 percent  
8 of the State collections base for the fiscal  
9 year; and

10           “(ii) with respect to the performance  
11 measures described in subparagraphs (D)  
12 and (E) of paragraph (1), 0.75 percent of  
13 the State collections base for the fiscal  
14 year.

15           “(B) DATA USED TO CALCULATE RATIOS  
16 REQUIRED TO BE COMPLETE AND RELIABLE.—

17 Notwithstanding subparagraph (A), the maxi-  
18 mum incentive amount for a State for a fiscal  
19 year with respect to a performance measure do-  
20 scribed in paragraph (1) is zero, unless the Sec-  
21 retary determines, on the basis of an audit per-  
22 formed under section 452(a)(4)(C)(i), that the  
23 data which the State submitted pursuant to  
24 section 454(15)(B) for the fiscal year and

3

1 which is used to determine the performance  
2 level involved is complete and reliable.

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

7 “(i) 2 times the sum of—

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

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

22 “(ii) the total amount of support col-  
23 lected during the fiscal year under the  
24 State plan approved under this part in all  
25 other cases.

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

3           “(A) PATERNITY ESTABLISHMENT.—

4           “(i) DETERMINATION OF PATERNITY  
 5 ESTABLISHMENT PERFORMANCE LEVEL.—

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

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

"If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	99
78%	79%	96
77%	78%	94
76%	77%	92
76%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74

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

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

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

13 "(i) DETERMINATION OF SUPPORT  
 14 ORDER PERFORMANCE LEVEL.—The sup-  
 15 port order performance level for a State  
 16 for a fiscal year is the percentage of the

1 total number of cases under the State plan  
2 approved under this part in which there is  
3 a support order during the fiscal year.

4 "(ii) DETERMINATION OF APPLICABLE  
5 PERCENTAGE.—The applicable percentage  
6 with respect to a State's support order per-  
7 formance level is as follows:

If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0

"If the cost effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
0.00 .....	2.00 .....	0.

1       “(c) TREATMENT OF INTERSTATE COLLECTIONS.—

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

8       “(d) ADMINISTRATIVE PROVISIONS.—The amounts  
9 of the incentive payments to be made to the States under  
10 this section for a fiscal year shall be estimated by the Sec-  
11 retary at or before the beginning of the fiscal year on the  
12 basis of the best information available. The Secretary shall  
13 make the payments for the fiscal year, on a quarterly basis  
14 (with each quarterly payment being made no later than  
15 the beginning of the quarter involved), in the amounts so  
16 estimated, reduced or increased to the extent of any over-  
17 payments or underpayments which the Secretary deter-  
18 mines were made under this section to the States involved  
19 for prior periods and with respect to which adjustment has  
20 not already been made under this subsection. Upon the  
21 making of any estimate by the Secretary under the preced-  
22 ing sentence, any appropriations available for payments  
23 under this section are deemed obligated.

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

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

12 **"(i) DETERMINATION OF CURRENT**  
13 **PAYMENT PERFORMANCE LEVEL.—**The  
14 current payment performance level for a  
15 State for a fiscal year is equal to the total  
16 amount collected during the fiscal year  
17 from all cases under the State plan ap-  
18 proved under this part divided by the total  
19 amount owed on support the payment of  
20 which is not overdue in all cases under the  
21 State plan during the fiscal year, expressed  
22 as a percentage.

23 **"(ii) DETERMINATION OF APPLICABLE**  
24 **PERCENTAGE.—**The applicable percentage

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

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

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

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

**"(D) COLLECTIONS ON CHILD SUPPORT  
ARRANGAGES.—**

**"(i) DETERMINATION OF ARREARS  
PAYMENT PERFORMANCE LEVEL.—**The ar-  
rears payment performance level for a  
State for a fiscal year is equal to the total  
number of cases under the State plan ap-  
proved under this part that received pay-  
ments of overdue child support during the  
fiscal year divided by the total number of  
cases under the State plan in which a pay-  
ment of child support is overdue, expressed  
as a percentage.

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

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

1 Notwithstanding the preceding sentence, if  
 2 the arrearage payment performance level  
 3 of a State for a fiscal year is less than 40  
 4 percent but exceeds by at least 5 percent-

1 age points the arrearage payment perform-  
 2 ance level of the State for the immediately  
 3 preceding fiscal year, then the applicable  
 4 percentage with respect to the State's ar-  
 5 rears payment performance level is 50 per-  
 6 cent.

7 **“(E) COST-EFFECTIVENESS.—**

8 **“(i) DETERMINATION OF COST-EF-**  
 9 **EFFECTIVENESS PERFORMANCE LEVEL.—**The  
 10 cost-effectiveness performance level for a  
 11 State for a fiscal year is equal to the total  
 12 amount collected during the fiscal year  
 13 under the State plan approved under this  
 14 part divided by the total amount expended  
 15 during the fiscal year under the State plan,  
 16 expressed as a percentage.

17 **“(ii) DETERMINATION OF APPLICABLE**  
 18 **PERCENTAGE.—**The applicable percentage  
 19 with respect to a State's cost-effectiveness  
 20 performance level is as follows:

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

1       “(e) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary governing the cal-  
3 culation of incentive payments under this section, includ-  
4 ing directions for excluding certain closed cases from the  
5 calculations.

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

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

11               “(2) for any activity approved by the Secretary,  
12 whether or not the expenditures for which are eligi-  
13 ble for reimbursement under this part, which may  
14 contribute to improving the efficiency of the State  
15 program operated under this part.”

16       “(b) TRANSITION RULE.—Notwithstanding any other  
17 provision of law—

18               (1) for fiscal year 2000, the Secretary shall re-  
19 duce by  $\frac{1}{3}$  the amount otherwise payable to a State  
20 under section 458, and shall reduce by  $\frac{2}{3}$  the  
21 amount otherwise payable to a State under section  
22 458A; and

23               (2) for fiscal year 2001, the Secretary shall re-  
24 duce by  $\frac{2}{3}$  the amount otherwise payable to a State  
25 under section 458, and shall reduce by  $\frac{1}{3}$  the

1 amount otherwise payable to a State under section  
2 458A.

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

9 (d) REVIEW.—

10 (1) STUDY.—The Secretary of Health and  
11 Human Services shall conduct a study of the imple-  
12 mentation of the incentive payment system estab-  
13 lished by section 458A of the Social Security Act, in  
14 order to identify the problems and successes of the  
15 system.

16 (2) REPORTS TO THE CONGRESS.—

17 (A) INTERIM REPORT.—Not later than  
18 March 1, 2001, the Secretary shall submit to  
19 the Congress an interim report that contains  
20 the findings of the study required by paragraph  
21 (1).

22 (B) FINAL REPORT.—Not later than Octo-  
23 ber 1, 2003, the Secretary shall submit to the  
24 Congress a final report that contains the final  
25 findings of the study required by paragraph (1).

1 The report shall include any recommendations  
2 for changes in the system that the Secretary  
3 determines would improve the operation of the  
4 child support enforcement program.

5 (e) **ELIMINATION OF PREDECESSOR INCENTIVE PAY-**  
6 **MENT SYSTEM.—**

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

9 (2) **CONFORMING AMENDMENTS.—**

10 (A) Section 458A of the Social Security  
11 Act (42 U.S.C. 658a) is redesignated as section  
12 458.

13 (B) Subsection (d)(1) of this section is  
14 amended by striking "458A" and inserting  
15 "458".

16 (3) **EFFECTIVE DATE.—**The amendments made  
17 by this subsection shall take effect on October 1,  
18 2001.

19 (f) **GENERAL EFFECTIVE DATE.—**Except as provided  
20 in subsection (e)(3), the amendments made by this section  
21 shall take effect on October 1, 1999.



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 Rice

OFFICE : \_\_\_\_\_

ROOM NO : \_\_\_\_\_

PHONE NO : \_\_\_\_\_

FAX NO : 56-7431

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

TOTAL PAGES INCLUDING COVER) : 16

REMARKS: *The latest draft from Ron on the Incentives legislation*





DATE: \_\_\_\_\_

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

PHONE: (202) 690-6311

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OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION  
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8 tive payment to each State for each fiscal year in an  
9 amount determined under subsection (b).

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

11 **“(1) IN GENERAL.—**The incentive payment for  
12 a State for a fiscal year is equal to the sum of the  
13 applicable percentages (determined in accordance <sup>with</sup>  
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15 for the State for the fiscal year, with respect to each  
16 of the following measures of State performance for  
17 the fiscal year:

18 **“(A) The paternity establishment perform-**  
19 **ance level.**

20 **“(B) The support order performance level.**

21 **“(C) The current payment performance**  
22 **level.**

23 **“(D) The arrearage payment performance**  
24 **level.**

25 **“(E) The cost-effectiveness performance**  
26 **level.**

F:\JDG\WM\IV-D\INCENT.002

2

1           “(2) MAXIMUM INCENTIVE AMOUNT.—

2                   “(A) IN GENERAL.—For purposes of para-  
3 graph (1), the maximum incentive amount for  
4 a State for a fiscal year is—

5                           “(i) with respect to the performance  
6 measures described in subparagraphs (A),  
7 (B), and (C) of paragraph (1), 1 percent  
8 of the State collections base for the fiscal  
9 year; and

10                           “(ii) with respect to the performance  
11 measures described in subparagraphs (D)  
12 and (E) of paragraph (1), 0.75 percent of  
13 the State collections base for the fiscal  
14 year.

15           “(B) DATA USED TO CALCULATE RATIOS  
16 REQUIRED TO BE COMPLETE AND RELIABLE.—

17           Notwithstanding subparagraph (A), the maxi-  
18 mum incentive amount for a State for a fiscal  
19 year with respect to a performance measure de-  
20 scribed in paragraph (1) is zero, unless the Sec-  
21 retary determines, on the basis of an audit per-  
22 formed under section 452(a)(4)(C)(i), that the  
23 data which the State submitted pursuant to  
24 section 454(15)(B) for the fiscal year and

1 which is used to determine the performance  
2 level involved is complete and reliable.

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

7 "(i) 2 times the sum of—

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

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

22 "(ii) the total amount of support col-  
23 lected during the fiscal year under the  
24 State plan approved under this part in all  
25 other cases.

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

3           “(A) PATERNITY ESTABLISHMENT.—

4           “(i) DETERMINATION OF PATERNITY  
5           ESTABLISHMENT PERFORMANCE LEVEL.—

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

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

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

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

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

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

13 "(i) DETERMINATION OF SUPPORT  
 14 ORDER PERFORMANCE LEVEL.—The sup-  
 15 port order performance level for a State  
 16 for a fiscal year is the percentage of the

1 total number of cases under the State plan  
 2 approved under this part in which there is  
 3 a support order during the fiscal year.

4 "(ii) DETERMINATION OF APPLICABLE  
 5 PERCENTAGE.—The applicable percentage  
 6 with respect to a State's support order per-  
 7 formance level is as follows:

"If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0

"If the cost effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
0.00 .....	2.00 .....	0

1       “(c) TREATMENT OF INTERSTATE COLLECTIONS.—

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

8       “(d) ADMINISTRATIVE PROVISIONS.—The amounts

9 of the incentive payments to be made to the States under  
10 this section for a fiscal year shall be estimated by the Sec-  
11 retary at or before the beginning of the fiscal year on the  
12 basis of the best information available. The Secretary shall  
13 make the payments for the fiscal year, on a quarterly basis  
14 (with each quarterly payment being made no later than  
15 the beginning of the quarter involved), in the amounts so  
16 estimated, reduced or increased to the extent of any over-  
17 payments or underpayments which the Secretary deter-  
18 mines were made under this section to the States involved  
19 for prior periods and with respect to which adjustment has  
20 not already been made under this subsection. Upon the  
21 making of any estimate by the Secretary under the preced-  
22 ing sentence, any appropriations available for payments  
23 under this section are deemed obligated.

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

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

12 "(i) DETERMINATION OF CURRENT  
13 PAYMENT PERFORMANCE LEVEL.—The  
14 current payment performance level for a  
15 State for a fiscal year is equal to the total  
16 amount collected during the fiscal year  
17 from all cases under the State plan ap-  
18 proved under this part divided by the total  
19 amount owed on support the payment of  
20 which is not overdue in all cases under the  
21 State plan during the fiscal year, expressed  
22 as a percentage.

23 "(ii) DETERMINATION OF APPLICABLE  
24 PERCENTAGE.—The applicable percentage

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

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

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

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

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

10 "(i) DETERMINATION OF ARREARS  
11 PAYMENT PERFORMANCE LEVEL.—The ar-  
12 rears payment performance level for a  
13 State for a fiscal year is equal to the total  
14 number of cases under the State plan ap-  
15 proved under this part that received pay-  
16 ments of overdue child support during the  
17 fiscal year divided by the total number of  
18 cases under the State plan in which a pay-  
19 ment of child support is overdue, expressed  
20 as a percentage.

21 "(ii) DETERMINATION OF APPLICABLE  
22 PERCENTAGE.—The applicable percentage  
23 with respect to a State's arrears payment  
24 performance level is as follows:

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

1 Notwithstanding the preceding sentence, if  
 2 the arrearage payment performance level  
 3 of a State for a fiscal year is less than 40  
 4 percent but exceeds by at least 5 percent-

1 age points the arrearage payment perform-  
 2 ance level of the State for the immediately  
 3 preceding fiscal year, then the applicable  
 4 percentage with respect to the State's ar-  
 5 rears payment performance level is 50 per-  
 6 cent.

7 "(E) COST-EFFECTIVENESS.—

8 "(i) DETERMINATION OF COST-EP-  
 9 FECTIVENESS PERFORMANCE LEVEL.—The  
 10 cost-effectiveness performance level for a  
 11 State for a fiscal year is equal to the total  
 12 amount collected during the fiscal year  
 13 under the State plan approved under this  
 14 part divided by the total amount expended  
 15 during the fiscal year under the State plan,  
 16 expressed as a percentage.

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

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

1       “(e) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary governing the cal-  
3 culation of incentive payments under this section, includ-  
4 ing directions for excluding certain closed cases from the  
5 calculations.

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

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

11               “(2) for any activity approved by the Secretary,  
12 whether or not the expenditures for which are eligi-  
13 ble for reimbursement under this part, which may  
14 contribute to improving the efficiency of the State  
15 program operated under this part.”.

16       “(b) TRANSITION RULE.—Notwithstanding any other  
17 provision of law—

18               “(1) for fiscal year 2000, the Secretary shall re-  
19 duce by  $\frac{1}{3}$  the amount otherwise payable to a State  
20 under section 458, and shall reduce by  $\frac{2}{3}$  the  
21 amount otherwise payable to a State under section  
22 458A; and

23               “(2) for fiscal year 2001, the Secretary shall re-  
24 duce by  $\frac{2}{3}$  the amount otherwise payable to a State  
25 under section 458, and shall reduce by  $\frac{1}{3}$  the

1 amount otherwise payable to a State under section  
2 458A.

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

9 (d) REVIEW.—

10 (1) STUDY.—The Secretary of Health and  
11 Human Services shall conduct a study of the imple-  
12 mentation of the incentive payment system estab-  
13 lished by section 458A of the Social Security Act, in  
14 order to identify the problems and successes of the  
15 system.

16 (2) REPORTS TO THE CONGRESS.—

17 (A) INTERIM REPORT.—Not later than  
18 March 1, 2001, the Secretary shall submit to  
19 the Congress an interim report that contains  
20 the findings of the study required by paragraph  
21 (1).

22 (B) FINAL REPORT.—Not later than Octo-  
23 ber 1, 2003, the Secretary shall submit to the  
24 Congress a final report that contains the final  
25 findings of the study required by paragraph (1).

1 The report shall include any recommendations  
2 for changes in the system that the Secretary  
3 determines would improve the operation of the  
4 child support enforcement program.

5 (e) **ELIMINATION OF PREDECESSOR INCENTIVE PAY-**  
6 **MENT SYSTEM.—**

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

9 (2) **CONFORMING AMENDMENTS.—**

10 (A) Section 458A of the Social Security  
11 Act (42 U.S.C. 658a) is redesignated as section  
12 458.

13 (B) Subsection (d)(1) of this section is  
14 amended by striking "458A" and inserting  
15 "458".

16 (3) **EFFECTIVE DATE.—**The amendments made  
17 by this subsection shall take effect on October 1,  
18 2001.

19 (f) **GENERAL EFFECTIVE DATE.—**Except as provided  
20 in subsection (e)(3), the amendments made by this section  
21 shall take effect on October 1, 1999.

Paul Taylor

9/9

## Child support incentives

Haskins bill very close

1) Not 2 year phase in  
RHI = 3 year phase  
2000-2002

2) Reinvestment

All incentives ~~the~~ must  
be reinvested in CSE

Other activities i.d.d  
by state + approval by  
Sect.  
→ probably will programs  
for families

---

Graham - does 5 year phase in

Bradley want to introduce later this week

9/8

Monahan

- ~~Monahan~~
- ① Tues am mtg on incentives bill  
HHS saw only 2 issues
- diff measure on collecting amounts  
→ HHS will give substitute
  - no flexibility

---

- also considering 3 years  
instead of 2 years

---

Haskins = announce w/ Secretary / maybe?

- ② Levin wants briefing on ~~the~~ systems

## **RESPONSE TO CALIFORNIA'S CONCERNS ABOUT INCENTIVE FUNDING PROPOSAL**

### **Background**

The current incentive system has been criticized because it is focused on only one aspect of the IV-D program. The incentives are paid based only on a State's cost effectiveness and all States receive a base rate regardless of performance. Most child support experts believe that this incentive system has no real incentive effect because all States receive the minimum six percent of incentives. This incentive system also does not reward states for other important aspects of child support enforcement, such as paternity establishment.

Over the past decade, a number of commissions and organizations have recommended the adoption of a new performance based incentive system. National organizations, including the National Conference of State Legislatures, the American Public Welfare Association, the National Governor's Association, and several national advocacy organizations have also recommended the adoption of a new performance based incentive system.

In June, 1993 President Clinton established a Working Group on Welfare, Family Support, and Independence to come up with a welfare plan, including child support enforcement reform. The plan, detailed in the proposed Work and Responsibility Act of 1994, would have required the Secretary of Health and Human Services (HHS) to set performance standards for State IV-D programs and reward states with high performance. Other major child support enforcement bills introduced in 1994, 1995, and 1996 by both Republican and Democratic members of Congress included similar provisions.

As a result, section 341 of the PRWORA requested the Secretary to consult with IV-D directors and recommend changes: The law states:

- ▶ The Secretary of Health and Human Services, in consultation with State directors of child support enforcement programs shall develop a new incentive funding system, in a revenue neutral manner;
- ▶ The new system shall provide additional payments to any State based on such State's performance under such a program; and
- ▶ The Secretary shall report to Congress on the new system by March 1, 1997.

The Incentive Funding Work Group was formed in October, 1996 consisting of 15 State and local IV-D directors or their representatives and 11 Federal staff representatives from the U.S. Department of Health and Human Services. This collaborative approach drew upon the partnership forged during the Federal Office of Child Support Enforcement's pilot of the Government Performance and Results Act (GPRA). Earlier efforts of this State-Federal

partnership produced a five-year national Strategic Plan for the child support enforcement program and a set of outcome measures to indicate the program's success in achieving the goals and objectives of the Strategic Plan. Using the same collaboration and consensus-building approach, the joint Work Group effort between State and Federal partners built its recommendations for a new incentive funding system on the foundation of the national Strategic Plan.

The new incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure is based upon established standards of performance. The Work Group sought to create standards that rewarded both high performing States for maintaining and improving on their success and encouraged poor performing States to improve their results. Accordingly, the Work Group considered both past performance and trends and data estimates for the future in establishing the performance standards. The performance standards adopted reflect three objectives: (1) incentives should increase as performance improves; (2) states performing at the very highest level that we can reasonable expect should receive the maximum incentive for that performance measure; and (3) there should be a minimum threshold of performance for each measure except that States below the threshold showing very significant improvement in performance should be rewarded with some incentive.

### ***PATERNITY ESTABLISHMENT***

The measure for paternity establishment is identical to that included by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for purposes of paternity establishment penalties.

### ***CASES WITH SUPPORT ORDERS***

Establishing an order to pay child support is a critical first step to collecting support for families. This measure shows how much of a IV-D agency's caseload is capable of being enforced and how well the agency is keeping up with case backloads and intake.

### ***COLLECTIONS ON CURRENT SUPPORT***

The third measure focuses on the proportion of current support due that is collected on IV-D cases. It gets to the heart of the program: regular and dependable support payments to families.

### ***COLLECTIONS ON ARREARS***

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible."

## **COST EFFECTIVENESS**

The final measure assesses the total dollars collected in the child support program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged.

### **California Concern**

*The effect of broadening performance measures and removing the cap on incentives for "never welfare" collections will pressure states to implement "universal" child support systems. States should focus on public assistance cases and not expand services to the middle class.*

### **Response**

The current incentive system is based on only one measure -- dollars collected compared to dollars expended. This does not reward the results that are so important to helping families such as establishing paternitys and support orders and collecting past due support.

There is a broad consensus among States and other stakeholders that the five incentive measures capture the key results of the child support program -- paternity establishment, support order establishment, collections on current support, collections on past due support, and collections per dollar of program cost.

The existing cap on incentives for non public assistance cases provided no incentive to move families off welfare. The cap hurt states that performed well on making collections for families not receiving public assistance, many of whom formerly received assistance or live close to the poverty level. States must make their own decision as to the comparative advantages and disadvantages of reaching out to all families in need of child support. However, for the past 15 years, Congress has been clearly broadening the IV-D program to provide services to non public assistance families. States may serve all families in need of child support who apply for services; indeed, Congress has required states to offer equal services to non welfare IV-D cases.

The proposed incentive plan would not expand services to the middle class; these families may already be served by the IV-D program if they requested services. The incentive proposal would count every dollar collected on behalf of assistance and former assistance families twice: this will focus States on serving the neediest families.

### California Concern

*The short phase-in period will result in increases or decreases of up to \$40 million depending on their performance under the proposed incentive system.*

### Response

A series of scenarios were developed for the State/Federal Incentives workgroup to show possible state-by-state impact. All these simulations were based on past performance (1995 data) with no consideration of the reliability of State-reported data; there was no attempt to anticipate or project future performance. We are confident that with the tools provided in welfare reform and increasing automation California's and other state's performance will improve, minimizing or reducing large changes in the level of incentives states receive.

### California Proposal

*Retain a cap on incentives earned on collections for "never welfare" families, expressed in terms of a percentage of incentives earned for collections on behalf of welfare and former welfare families.*

### Response

Welfare caseloads are shrinking. 47 out of 50 states have seen their caseload decline, 30 by more than 25%. California has not seen the greatly diminished welfare caseloads that have resulted in states where welfare reform has been implemented.

By doubling the collections on assistance and former assistance cases in the Federal/State proposal, a strong incentive is provided to serve those disadvantaged families which California claims to serve. Collections on residual and never assistance cases represent only 40% of the doubled assistance and former assistance collections nationally. This concern is a smokescreen; no state is at the cap, even California collections on never assistance cases is at 24% of the doubled assistance and former assistance collections. Retaining a cap does not affect the incentive scenarios develop by the Federal/State workgroup. Given the potential changes as a result of welfare reform, more families will be able to avoid welfare altogether, increasing the "at risk" never assistance caseload.

### California Proposal

*Increase the total maximum incentive a state can earn by increasing the weights of each of the five performance measures.*

### Response

Added together, the three measures at 1% and two measures at .75% equal 4.5% of the collection base. Cost neutrality mandates that a new incentive formula will not cost more than the current formula. Allotting a possible total of 4.5% of the collection base keeps the new formula cost neutral. Preliminary estimates of incentive funding payments under the recommended formula are within the range of Congressional Budget Office projections under current law. The statute requires the new system to be cost neutral. Since welfare reform made substantial changes to both the TANF and child support programs, these changes and their interaction must be considered in determining cost neutrality. Therefore, during the legislative process, if subsequent cost estimates show that the formula is not cost neutral, adjustments up or down can be made to the 4.5 percent to assure cost neutrality. For example, if new estimates show a decrease in the Federal share of collections due to separate State programs and legislation is not enacted to protect the Federal share, an adjustment may need to be made.

California's proposal increases the percentage of the collection base to 8% -- which is not cost neutral as required by PRWORA.

### California Proposal

*Establish a threshold of program compliance for states to receive federal performance based incentives.*

### Response

PRWORA mandates that Federal compliance audits be replaced with a system of State self-assessments. Together the states and OCSE have developed a strategic plan, performance measures and an incentive proposal that focuses on and rewards results. A threshold of program compliance works against the forward direction of the State/Federal partnership. Compliance with Federal requirements will be monitored and assured through the state self assessment and other tools; there is no need for a linkage between program compliance and

rewarding results. Results should be rewarded, period. States that may have significant compliance problems will have trouble producing the results that are being rewarded by the proposed incentive plan and will not meet state plan requirements, which jeopardizes all federal funds.

### California Proposal

*Prohibit supplantation of state dollars with federal dollars as the new system is implemented.*

### Response

We agree.

### California Proposal

*Phase in the new incentive system over five years, with the revised system accounting for 20 percent of a state's incentives in one year, increasing by 20 percent each year until full implementation is reached.*

### Response

This lengthy phase in disadvantages high performing states who are hurt by the current incentive system. This perpetuates an incentive system not based on results but guaranteeing a minimum six percent incentive despite poor performance. The two year phase in developed by the State/Federal workgroup was a compromise between states who wanted no phase in with full implementation in FY 2000 and those who wanted a longer phase in.



U.S. Dept. of Health and Human Services

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**REPORT TO THE**  
**HOUSE OF REPRESENTATIVES**  
**COMMITTEE ON WAYS AND MEANS**  
**AND THE**  
**SENATE COMMITTEE ON FINANCE:**  
**CHILD SUPPORT ENFORCEMENT**  
**INCENTIVE FUNDING**



February, 1997

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## **Child Support Enforcement Incentive Funding Formula**

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### **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services (HHS), in consultation with State directors of IV-D programs, to recommend to Congress a new incentive funding system for the State child support enforcement programs which is to be based on program performance.

In order to consult with State IV-D directors, an Incentive Funding Work Group was formed consisting of 15 State and local IV-D directors and 11 Federal staff representatives from the U.S. Department of Health and Human Services. The Work Group held a series of meetings and worked over a period of three months to come up with the recommendations for the new incentive funding system. State representatives on the Work Group also consulted with State IV-D programs not represented directly on the Work Group. The recommendations of the Work Group represent a consensus (although, not necessarily, unanimous agreement) on the new incentive funding system. The report of the Incentive Funding Work Group is attached hereto. The Secretary of Health and Human Services fully endorses the incentive formula set forth in the Incentive Funding Work Group Report, recognizing that Work Group consensus depends on adoption of all Work Group recommendations. This report of the Secretary of Health and Human Services makes recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate based upon the report of that Work Group and addresses the need for further work in areas beyond the scope of the Work Group's charter.

The Work Group's Report includes recommendations with respect to other aspects of program funding, beyond incentives, for example, a recommendation that the level of Federal financial participation in State program expenditures remain at 66 percent. Because further work may be needed on broader program funding issues, we are sending the Work Group recommendations forward for consideration by the Congress, recognizing the importance of consensus and endorsing the Work Group's recommendations with respect to the incentive formula itself, while reserving judgment on those aspects of the recommendations that address broader program funding issues. We are committed to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform. Bifurcation choices made by States could impact the source of incentive payments, i.e., the Federal share of collections. We are committed to working with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

**SUMMARY OF RECOMMENDATIONS**

○ **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.

○ **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.

○ **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.

○ **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.

○ **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.

○ **Maintain FFP.** The Work Group recommends that the Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent. As discussed above, further work on larger program funding issues is needed before commitment to the current level of Federal funding of program costs.

○ **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

## **Child Support Enforcement Incentive Funding Formula**

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### **BACKGROUND**

Under Section 458 of Title IV-D of the Social Security Act, States are currently paid as an incentive a minimum of six percent of their AFDC collections and six percent of their nonAFDC collections. There is also the potential to earn up to 10% of collections based on the State's cost effectiveness. However, the total amount of nonAFDC incentives is capped at 115% of the AFDC incentive.

This current incentive system has been criticized because it is focused on only one aspect of the IV-D program. The incentives are paid based only on a State's cost effectiveness and all States receive a base rate regardless of performance. Most child support experts believe that this incentive system has no real incentive effect because all States receive the minimum six percent of incentives. This incentive system also does not reward states for other important aspects of child support enforcement, such as paternity establishment.

Over the past decade, a number of commissions and organizations have recommended the adoption of a new performance based incentive system. In 1988 Congress authorized the creation of the U.S. Commission on Interstate Child Support to make recommendations to Congress on improving the child support program. When the Interstate Commission issued its report in August, 1992 it called for a study of the federal funding formula and a change of the incentive structure to one based upon performance. Other national organizations, including the National Conference of State Legislatures, the American Public Welfare Association, the National Governor's Association, and several national advocacy organizations have also recommended the adoption of a new performance based incentive system.

In June, 1993 President Clinton established a Working Group on Welfare, Family Support, and Independence to come up with a welfare plan, including child support enforcement reform. The plan, detailed in the proposed Work and Responsibility Act of 1994, would have required the Secretary of Health and Human Services (HHS) to set performance standards for State IV-D programs and reward states with high performance. Other major child support enforcement bills introduced in 1994, 1995, and 1996 by both Republican and Democratic members of Congress included similar provisions.

As a result, section 341 of the PRWORA requested the Secretary to consult with IV-D directors and recommend changes: The law states:

- ▶ The Secretary of Health and Human Services, in consultation with State directors of child support enforcement programs shall develop a new incentive funding system, in a revenue neutral manner;

## **Child Support Enforcement Incentive Funding Formula**

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- ▶ The new system shall provide additional payments to any State based on such State's performance under such a program; and
- ▶ The Secretary shall report to Congress on the new system by March 1, 1997.

The Incentive Funding Work Group was formed in October, 1996 consisting of 15 State and local IV-D directors or their representatives and 11 Federal staff representatives from the U.S. Department of Health and Human Services. This collaborative approach drew upon the partnership forged during the Federal Office of Child Support Enforcement's pilot of the Government Performance and Results Act (GPRA). Earlier efforts of this State-Federal partnership produced a five-year national Strategic Plan for the child support enforcement program and a set of outcome measures to indicate the program's success in achieving the goals and objectives of the Strategic Plan. Using the same collaboration and consensus-building approach, the joint Work Group effort between State and Federal partners built its recommendations for a new incentive funding system on the foundation of the national Strategic Plan.

### **PERFORMANCE MEASURES AND STANDARDS**

The new incentive system measures State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness. There was a consensus among the Work Group members that these are the five most important measures in determining the success of the child support enforcement program. These five measures are nearly identical to the measures proposed in the major welfare bills introduced in the past few years, including the Work and Responsibility Act of 1994 and the Personal Responsibility Act of 1996. The specific equations for each of these five measures were developed by the Incentive Funding Work Group relying, in large part, upon the national Strategic Plan. Thus, these measures reflect a widespread consensus among child support professionals regarding the major factors we ought to be measuring to determine success of the child support program.

The new incentive system provides rewards to States for effective paternity establishment programs. This is not intended to weaken the provisions of PRWORA that penalize States that do not improve their performance in paternity establishment. The incentive for paternity establishment assures that resources are put into the child support program based on State performance, while the penalty taken against the TANF grant assures State compliance with the paternity establishment requirements of PRWORA.

## Child Support Enforcement Incentive Funding Formula

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The new incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure is based upon established standards of performance. The Work Group sought to create standards that rewarded both high performing States for maintaining and improving on their success and encouraged poor performing States to improve their results. Accordingly, the Work Group considered both past performance and trends and data estimates for the future in establishing the performance standards. The performance standards adopted reflect three objectives: (1) incentives should increase as performance improves; (2) states performing at the very highest level that we can reasonable expect should receive the maximum incentive for that performance measure; and (3) there should be a minimum threshold of performance for each measure except that States below the threshold showing very significant improvement in performance should be rewarded with some incentive.

For each standard, there is an upper threshold for the program to achieve, most often set at 80 percent (and 5.00 for the cost effectiveness ratio). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for using an 80 percent standard include a recognition that there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. There was consensus that 80% is a level that states can realistically strive to achieve. For example, in some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e, \$5 of child support is collected for each \$1 spent to collect it).

At the lower end of the scale in each case, there is a minimum level below which performance would not be rewarded. These lower limits were set by examining current performance data. However, if a State can demonstrate a substantial improvement over the prior year's performance, that improvement would entitle the State to some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) As a result, those states with lower performance levels will at least receive some incentive provided that the program is moving sufficiently quickly in the right direction.

The upper and lower thresholds for performance are based on analysis of State performance data and projections. The work group recommended that, in the future the formula be reviewed and adjusted, if necessary. Should actual experience demonstrate, for example, that the majority of States easily achieve the highest performance standard in a particular measure, then the formula should be reevaluated to see that it rewards improvement.

A brief description of the measures follows. The equations and standards are included in the workgroup report.

## **Child Support Enforcement Incentive Funding Formula**

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### ***PATERNITY ESTABLISHMENT***

The measure for paternity establishment is identical to that included by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for purposes of paternity establishment penalties.

### ***CASES WITH SUPPORT ORDERS***

Establishing an order to pay child support is a critical first step to collecting support for families. This measure shows how much of a IV-D agency's caseload is capable of being enforced and how well the agency is keeping up with case backloads and intake.

### ***COLLECTIONS ON CURRENT SUPPORT***

The third measure focuses on the proportion of current support due that is collected on IV-D cases. It gets to the heart of the program: regular and dependable support payments to families.

### ***COLLECTIONS ON ARREARS***

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible."

### ***COST EFFECTIVENESS***

The final measure assesses the total dollars collected in the child support program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged.

## Child Support Enforcement Incentive Funding Formula

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### WEIGHTING AND COST NEUTRALITY

Each State will earn five scores based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. Therefore, the decision was reached to count the first three measures (paternity establishment, order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "collection base" as defined below. Lower scores earn a percentage of the 1%. The last two measures are worth at a maximum .75% of the collection base. Lower scores, again, earn a lower proportion of this .75%.

Added together, the three measures at 1% and two measures at .75% equal 4.5% of the collection base. Cost neutrality mandates that a new incentive formula will not cost more than the current formula. Allotting a possible total of 4.5% of the collection base keeps the new formula cost neutral. Preliminary estimates of incentive funding payments under the recommended formula are within the range of Congressional Budget Office projections under current law. The statute requires the new system to be cost neutral. Since welfare reform made substantial changes to both the TANF and child support programs, these changes and their interaction must be considered in determining cost neutrality. Therefore, during the legislative process, if subsequent cost estimates show that the formula is not cost neutral, adjustments up or down can be made to the 4.5 percent to assure cost neutrality. For example, if new estimates show a decrease in the Federal share of collections due to separate State programs and legislation is not enacted to protect the Federal share, an adjustment may need to be made. In addition, the behavioral effects of paying incentives on never-assistance cases, if any, may have to be considered in making cost-neutrality adjustments to the formula.

Since the spending effects of the new system are untried, it is important that the new system include a provision to ensure that aggregate incentive payments are what they would have been under the old system, even if baseline projections are inaccurate. HHS will work with the Office of Management and Budget and its State partners to develop an automatic adjustment mechanism to ensure cost neutrality against the old system for five years following the implementation of the new system.

At the end of five years, HHS will report to the Congress on its experience with the new incentive system. The report will include HHS' assessment of the new incentive system's effects on State performance on paternity and order establishment, current and overdue support collections on TANF and nonTANF caseloads, and cost effectiveness. HHS will also report to the Congress on the past and *potential* spending effects of the new incentive

## **Child Support Enforcement Incentive Funding Formula**

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system. At this time, the Administration will recommend to Congress whether any modifications to the incentive system are necessary, such as the continuation of an automatic adjustment mechanism to control incentive expenditures.

### **THE COLLECTION BASE**

The current incentive system is based on a percentage of total TANF collections plus non-TANF collections capped at 115% of TANF collections. Collections for incentive purposes include those made on behalf of other States. There are several problems that States are experiencing with the current formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are effectively being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the effect of the cap is aggravated. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of incentive dollars available to the States. A related result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore the incentive base ought to include all non-TANF collections without a cap as well as allowing States to count interstate collections.

The Work Group also felt that it was especially important to ensure that states continued to have strong incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since collection in TANF and former TANF cases is generally more difficult than in non-TANF cases, and non-TANF collections are rising at a faster rate, it is sensible to provide a heavier emphasis on collection in TANF and former TANF cases. In addition, collections in TANF cases provides direct savings to the state and federal governments. Therefore the Work Group recommends adding collections made on former TANF cases to collections made on TANF cases and doubling these collections in the formula to give them extra emphasis. This has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to states. The formula recommended is therefore:

$$2(\text{TANFS} + \text{former TANFS}) + \text{non-TANFS}^* = \text{collection base}$$

\*nonTANF does not include former TANF

## **Child Support Enforcement Incentive Funding Formula**

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### **PHASE IN**

By definition, some states will lose incentives by changing to a new incentive funding formula that is both performance based and cost neutral. To mitigate the loss, the Work Group recommended that the formula be phased in. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old formula and half of what it earns under the new calculation. In fiscal year 2001, the new formula would be fully implemented. The extra year will provide those States affected to absorb reduced revenue while improving performance.

### **REINVESTMENT OF INCENTIVES IN CHILD SUPPORT PROGRAM**

Currently, incentives earned by the State child support programs do not have to be reinvested in State programs. The result is that money that comes from the Federal investment in the child support program can end up being used for other purposes. The Work Group strongly recommended that States be required to reinvest federal dollars into the child support enforcement program. This would ensure continued improvement, adequate resources, and the maintenance of high performance levels.

### **FEDERAL FINANCIAL PARTICIPATION**

Currently, the Federal government pays 66% of the administrative cost of the child support program. As a result of both Federal and State efforts over the past four years, child support collections and paternity establishment has reached record levels. Yet, we still have a long way to go to improve the program to where it should ultimately be. The PRWORA requires that States implement many changes to improve the operations of their programs. The Work Group believes strongly that continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges. However, before endorsement of this funding level, we intend to follow through on our commitment to discussions on the broader program funding issues which arise under State flexibility under the TANF program.

### **REVIEW MECHANISM**

There were two major difficulties that faced the Work Group in developing an incentive funding formula for the future. First, the Work Group recognized that it was making a recommendation for a formula that would not be put into effect until FY 2000. With the

## **Child Support Enforcement Incentive Funding Formula**

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passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the child support enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Therefore, the child support program's results and effects of the new incentive system should be reviewed periodically. Limited discretion should be granted to the Secretary, to make appropriate changes, in consultation with the States, based on the program's actual results and effects every three to five years.

### **NEXT STEPS**

We recognize that Work Group consensus depends on adoption of all their recommendations. We fully endorse the elements of the formula itself. However, the Work Group included recommendations with respect to other aspects of program funding. Because further work is needed on broader program funding issues, we are sending the Report forward with a commitment to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform.

In addition, bifurcation choices made by States could impact any incentive funding formula. The Federal share of collections will continue as the source of incentive payments. Depending on how States structure Temporary Assistance to Needy Families programs, the Federal share of collections could be reduced, threatening the source of incentive payments. Currently, the Federal share of collections for FY 1996 is approximately \$1.297 billion, of which \$409 million is paid to States in incentives. We will work with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

Finally, the work group recognized that the predictive ability of data and cost estimates is limited given current data and the impact of such factors as future demographic trends and PRWORA. Additional Federal and State efforts are critical before FY 2000 to ensure States produce reliable data upon which incentive funding will be based. The need to preserve the flexibility to adjust the formula in future years, based on actual results of the changing world under PRWORA, is built into the proposal. Flexibility is also needed to consider different or additional measures, such as one that looks at how child support collections avoid costs in other public benefit programs.

## **Child Support Enforcement Incentive Funding Formula**

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### **CONCLUSION**

This report of the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century. We will work with Congress during the legislative process to enact a new incentive funding formula. The forwarding of this Report and its recommendations recognizes the need to keep the momentum needed to ensure the success of the child support program while emphasizing that further work needs to be done to address additional issues in the context of the changing texture of State TANF and child support programs. We have begun, and will work quickly with the Congress and Governors, to resolve those related issues.

Attachment: Incentive Funding Workgroup Report to the  
Secretary of Health and Human Services

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**INCENTIVE FUNDING WORK GROUP:  
REPORT TO THE SECRETARY OF HEALTH AND  
HUMAN SERVICES**

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January 31, 1997

## TABLE OF CONTENTS

	<u>Page</u>
Introduction .....	1
Summary of Recommendations .....	2
Principles .....	3
Considerations .....	7
General Themes .....	8
Paternity Measure .....	9
Cases With Support Orders .....	11
Collections on Current Support .....	12
Collections on Arrears .....	13
Cost Effectiveness .....	15
Weighting the Measures .....	16
Incentives Based on Collection .....	16
Phase In .....	17
Example .....	18
Conclusion .....	18
Appendix	
List of Incentive Funding Work Group Members	
Social Security Act Section 458	
Personal Responsibility and Work Opportunity Reconciliation Act Section 341	

# **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

## **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services, in consultation with directors of State Child Support Enforcement (IV-D) programs, to recommend to Congress a new incentive funding system for the States which is to be based on program performance.

This report summarizes the recommendations of the Incentive Funding Work Group, which was convened by the Office of Child Support Enforcement (OCSE) in the Administration of Children and Families (ACF) at the Department of Health and Human Services. The Work Group, which consists of 26 representatives of State and local IV-D programs, HHS regional offices, and the OCSE central office met three times between November, 1996 and January, 1997. Between each of these meetings, the Work Group circulated its decisions and recommendations among all of the other States, region by region, and got feedback and reactions to decisions which were then incorporated into the discussion and recommendations of the following session. This report includes the final recommendations of the Work Group. With the exception of one dissenting State, the group reached consensus on these final recommendations.

The recommendations of the Incentive Funding Work Group were built on the earlier efforts of a joint OCSE-State Performance Measures Work Group, which met between March 1995 and July 1996. These efforts grew out of the work that had been done by OCSE and the States, as part of a pilot program for the Government Performance and Responsibility Act, to develop a five year National Strategic Plan for the Office of Child Support Enforcement and its State partners.

The Incentive Funding Work Group recommends that five key performance measures be used to evaluate each State's performance and measure results in the Child Support Enforcement program. These measures emphasize paternity establishment, support order establishment, collection of current support, collection of arrearages, and cost effectiveness. Incentives would be paid to the States based on each State's weighted scores on each of these measures and calculated and paid as a percentage of the State's child support collections. The details of this formula will be discussed below.

The Incentive Funding Work Group urges that the entire incentive funding formula be viewed as a whole package, of which the individual pieces fit together to achieve a package of desired results. Alteration of any one piece of the formula could shift the entire intended impact of the incentives in an undesirable way. The Work Group stresses that the near total consensus among the partners supporting this formula depends on the adoption of the package as a whole.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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There is still work to be done to define each factor in each measure so that all States are counting the same things, whether cases, collections, or expenditures, and counting them consistently. The Work Group will meet again to settle any outstanding definitional issues. Many of these have already been addressed through the work of the OCSE Measuring Excellence Through Statistics (METS) initiative. The Work Group agreed to adopt the definitions contained in the Outcome Measures document, e.g., cases in which there is no jurisdiction should be excluded.

In this report, the principles and constraints that guided the group's decisions are discussed. The general themes that are consistent in all measures are presented. Then each measure is presented in detail. Finally, there is a discussion about the relative importance of each measure and the determination of the collections on which the incentive funding is to be based.

### **SUMMARY OF RECOMMENDATIONS**

- **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.
- **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.
- **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.
- **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.
- **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.
- **Maintain FFP.** The Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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- **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

### **PRINCIPLES**

In order to develop the incentive funding measures, the Work Group agreed to certain fundamental principles which would guide their discussion and decisions.

The Child Support Enforcement Program will put children first by creating an incentive funding formula that..

- is performance-based, encouraging improved program outcomes
- helps to achieve the goals articulated in the OCSE National Strategic Plan and avoids unintended consequences
- continues to respond promptly to improvements in the desired area of performance
- recognizes maintenance of high performance as well as improvement in performance level
- requires that incentive dollars and Federal matching funds be invested in the Child Support Enforcement program
- includes a mechanism that will allow the committee or the Secretary to review and change the formula in the future, if necessary, based on an evaluation of the results
- treats all children equitably
- is simple.

### **Performance Based**

The PRWORA legislation mandates that a new incentive funding formula based on performance should be proposed. In each of the five recommended measures, a State's performance in a specific program area (paternity, order establishment, current support collection, arrears collections, and cost effectiveness) is measured using a mathematical formula. All States that achieve performance above a specified minimum score in each of

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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the five measures are entitled to some portion of a maximum possible incentive. In four of the measures, the maximum incentive is available to those States scoring above a threshold of 80%. This target recognizes that for each measure there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. Some cases are beyond the control of the IV-D agency. In some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e., \$5 of child support is collected for each \$1 spent to collect it).

The formulas each have lower limits below which incentives are not paid unless the State makes a large increase over the previous year's performance. These lower limits were set by examining current performance data.

### **Goals of the Strategic Plan**

In February, 1995, the Federal Office of Child Support Enforcement and its State partners achieved consensus on the adoption of a National Strategic Plan for the program. The Plan consists of three major goals, as well as a number of objectives for each of the goals. This effort was a result of OCSE's participating as a pilot program for the Government Performance and Results Act.

After developing the goals and objectives for the Strategic Plan, the next step was to develop performance measures which would be used to measure results and the program's success in achieving the goals and objectives. A representative group, including some members of the Core Team that developed the Strategic Plan, Federal staff and State representatives, met over many months to develop these performance measures, which were agreed to by the States in July, 1996.

The Incentive Funding Work Group based much of its work on the groundwork done by the GPRA Performance Measure Work Group. The paternity establishment measure is derived from Goal I of the Strategic Plan, *All Children Have Parentage Established*. The order establishment measure comes from Goal II, *All Children in IV-D Cases Have Financial and Medical Support Orders*. The last three measures on current collections, arrears collections and cost effectiveness derive from Goal III, *All Children in IV-D Cases Receive Financial and Medical Support from Both Parents*. In this goal, there are several objectives, including "to increase the collection rate" and "to make the process more efficient and responsive." The measures specifically address these objectives.

The Incentive Work Group also worked to ensure that no performance measure would reward negative "unintended consequences." There was an effort to examine all ways a

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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program might attempt to improve its score on a measure and to remove any measure that would lead to behavior that would hurt the program. The Group recognizes that it is impossible to anticipate and avoid all unintended consequences and has built in a mechanism for future adjustments in the formula. (See Review Mechanism.)

### **Prompt Response to Program Improvements**

The incentive funds, which will be paid quarterly based on the program performance achieved during the prior Federal fiscal year, recognizes improvements each year. The higher the score on a measure, the higher the proportion of incentive money that can be earned. Furthermore, those States with very low scores can earn a portion of the incentive money if they demonstrate substantial improvement in program performance over the prior year's performance. In most cases, a low scoring State must improve its own performance at least 5% to be eligible for any incentive payment. For the paternity measure, performance in the lower ranges must improve by at least 10%.

### **Recognizes Maintenance of High Performance**

In addition to rewarding a program's improvement, the Work Group felt strongly that those States that were successful at maintaining a high performance level should be rewarded. For this reason, the absolute score a State achieves dictates the proportion of incentive that it can earn at the higher levels, while improvement over the prior year's performance was not a requirement of the formulae at these higher levels. There is a recognition that a State achieving a very high level of performance will have a much harder time improving its performance than will a State at a lower level and must invest substantial resources to maintain the high performance.

### **Requires Program Reinvestment**

The Work Group strongly recommends that States be required to reinvest federal dollars into the Child Support Enforcement program rather than diverting them to other programs, however worthwhile. This will ensure continued improvement, adequate resources, and the maintenance of high performance levels.

### **Review Mechanism**

There were two major difficulties that faced the Work Group in developing an incentive funding formula for the future. First, the group recognized that it was making a

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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recommendation for a formula that would not be put into effect until FY 2000. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Child Support Enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Because of these and other uncertainties about the program, the group felt that it was essential to build into the incentive funding formula a mechanism that would allow the Secretary, in consultation with the States, to review the program's results and examine any unanticipated and/or unintended consequences of the proposed formula and recommend changes based on these actual results every three to five years.

The group recommends that in the future a welfare cost avoidance measure be included at such time as a more reliable measure is developed.

It is essential that every effort be made to ensure that the performance data on which incentive payments will be made be reliable. While automation should improve the quality of the data, OCSE's audit staff will need to examine how the States are reporting data and help the States achieve reliable data reporting. This is anticipated under PRWORA, in new responsibilities for Federal audits.

### **Treat All Children Equitably**

The recommended incentive funding formula is intended to continue the Child Support Enforcement program's effort to put children first. It has tried to ensure that children are served equitably and without discrimination by maintaining a balance between emphasizing the needs of TANF recipients, large and small States, interstate and intrastate cases, etc. The Work Group neither expected nor intended there to be any reduced efforts as a result of a State's earning less money based on performance.

### **Simplicity**

The Work Group strived to reach consensus on a formula that would be simple to understand and administer, which at the same time would meet all of the above criteria. By taking a similar approach to each measure, in which outcomes were rewarded proportionately at the upper levels of performance, and substantial improvement was rewarded at the lower performance levels, the group attempted to achieve a degree of consistency and simplicity.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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### **CONSIDERATIONS**

At the same time that the Incentive Funding Work Group was guided by some fundamental principles, it tried to keep in mind some realistic constraints and process considerations in its deliberations. They wanted to recommend a formula that could be accepted by all who would be affected. These considerations, listed below, also affected the group's recommendations.

1. The formula recommended should be politically viable. All stakeholders should be considered. Stakeholder concerns were anticipated and addressed at every step of the process. The concerns with respect to each aspect of the formula were addressed and resolved.
2. Some States will lose money under a cost neutral new incentive funding scheme based on performance. Because the current system is not performance-based, each State is guaranteed to receive a minimum of 6% of collections in incentives. By moving to a formula that is based on performance and, at the same time, is cost neutral for the Federal government, some States will certainly lose incentive money in the future unless they improve their performance.
3. There must be built in flexibility to change the system (based on consultation with the States) if it is not working properly. If unintended consequences are discovered, the system should be changed. The world will change dramatically under welfare reform and the proposed formula might need to be changed because of that. Also, in the future, with welfare reform, it is possible that a measure could be developed to look at cost avoidance.
4. There should be as much advance notice to States as possible to allow for proper preparation, planning, and performance improvement. Advance planning time is necessary for budgeting purposes, for example. States need time to prepare for and achieve data reliability. There will be an incentive for States to clean up their caseloads.
5. The recommended incentive funding system should avoid possibilities of "gaming" the system and should also encourage early implementation by the States.
6. States should fund some part of their Child Support Enforcement program. They are mandated to fund 34% of the program. The Work Group expressed concern about those States that are "making profits" on the Child Support Enforcement program without returning these benefits to the program. The Work Group also felt that it was important to maintain the current level of federal financial participation (FFP) at 66%. Continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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7. States should continue to worry about working the "tough" cases and about timeliness of service delivery. There is a critical need to reward success in assistance cases and former assistance cases.

### **GENERAL THEMES**

As mentioned previously, in order to keep the incentive funding formula relatively simple to understand, explain, and administer, there are certain consistencies in approach across all five measures. Also, there is a logic to the five measures chosen as they emphasize the logical development stages in a child support enforcement case: establishing paternity, establishing a support order, collecting current support due, collecting any arrears owed, and doing all of this in a cost effective manner.

States want their performance to be judged and compared with their own performance in the previous year. These measures are constructed to compare a State's performance to itself, not to a "national average."

In each case, there is an upper threshold for each State to achieve, most often set at 80% (and 5:1 ratio of collections to costs for the cost effectiveness measure). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for the 80% vary across the measures, but in general they include a recognition that this is a level that States can realistically strive to achieve. At the same time, the 80% recognizes that there will always be some cases in the caseload which, for a variety of reasons, will be impossible to work successfully.

At the lower end of the scale in each case, there is a minimum level below which the group felt that performance should not be rewarded unless a State demonstrates a **substantial improvement** over the prior year's performance. The group believes that substantial improvement should be recognized with some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) This mechanism allows them some access to funding if the program is moving sufficiently quickly in the right direction.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **PATERNITY MEASURE**

The first measure is based on the Paternity Establishment Percentage as defined in the Personal Responsibility and Work Opportunity Reconciliation Act on 1996. Under PRWORA, States may use either one of the following two measures:

#### **1. IV-D Paternity Establishment Percentage:**

The ratio that the total number of children in the IV-D caseload in the fiscal year or, at the option of the State, as of the end of the fiscal year, who have been born out of wedlock, the paternity of whom has been established or acknowledged bears to the total number of children in the IV-D caseload as of the end of the preceding fiscal year who were born out of wedlock .

Equation:

$$\frac{\text{Total \# of Children in IV-D Caseload in the Fiscal Year or, at the option of the State, as of the end of the Fiscal Year who were born out of wedlock with Paternity Established or Acknowledged}}{\text{Total \# of Children in IV-D Caseload as of the end of the preceding Fiscal Year who were Born Out of Wedlock}}$$

#### **2. Statewide Paternity Establishment Percentage:**

The ratio that the total number of minor children who have been born out of wedlock and the paternity has been established or acknowledged during the fiscal year, bears to the total number of children born out of wedlock during the preceding fiscal year.

$$\frac{\text{Total \# of Minor Children who have been Born Out of Wedlock and the Paternity has been Established or Acknowledged During the Fiscal Year}}{\text{Total \# of Children Born Out of Wedlock During the Preceding Fiscal Year}}$$

This measure is unique among the five measures in that, by statute, there are currently penalties based on the paternity measure. States are required to improve their performance by a specific amount or they are subject to penalties. The Work Group considered whether the incentives based on this measure should reflect, in some manner, the penalty scoring system. For example, the penalty system requires that States demonstrate improved performance over the previous year. There was a concern about whether States should be subject to penalties and be eligible for incentives at the same time. Some felt that the lack of incentive would make these States doubly penalized by not improving performance. The group concluded that States should be eligible for incentives based on performance even if they were subject to penalties because their performance had not improved to the extent required to avoid the penalty. An example illustrates the rationale for

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

this. If a State is at an 85% performance level one year, and increases to 86% the following year, it would be subject to a penalty for not achieving a 2% increase in performance. The Incentive Funding Work Group felt that the State should be rewarded for its high level of performance by receiving 100% of the possible incentive to encourage sustained performance. The paternity incentive is an integral part of the recognition and reward of State performance in the range of required program results, and, as such, merits distinction regardless of the potential for a penalty. The scale for the incentive funding on paternity is shown below:

### **Paternity Establishment Percentage**

<b>Performance Level</b>	<b>% of Maximum Incentive</b>
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (increases by 1% increments)	61% - 78% (increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 10%

If a State is performing at the 70% level, it is eligible for 80% of the incentive for this measure. If it is performing at the 77% level, it is eligible for 94% of the incentive for this measure. If performance drops from one year at 72% to the next year at 69%, the incentive percentage drops from 84% to 78%, but does not disappear altogether. If a State is at 48%, in order for that State to receive a percentage of incentive, it must have improved at least 10 percentage points over its prior year's performance. That is, the State would have had to have been at or below 38% the previous year in order to receive 50% of the incentive.

# INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

## CASES WITH SUPPORT ORDERS

The second measure looks at the percentage of cases in the IV-D caseload that have orders for support. The equation to compute the incentive is as follows:

$$\frac{\text{Number of IV-D Cases with Support Orders}}{\text{Total Number of IV-D Cases}}$$

Again, this measure has a sliding scale so that an increased performance earns a higher level of the incentive. Any score above 80% earns the maximum possible incentive. Any score below 49% requires an improvement of at least 5% over the previous year's performance. The table below illustrates the scoring on this measure:

### Order Establishment

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (increases by 1% increments)	61% - 78% (increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 5%

# INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

## **COLLECTIONS ON CURRENT SUPPORT**

The third measure focuses on the proportion of current support due that is collected on IV-D cases. This measure was felt to be very important because it gets to the crux of the program: regularly and dependably collecting support money that is due families.

The proportion of current support collected is expressed by the following formula:

$$\frac{\text{Total Dollars Collected for Current Support in IV-D Cases}}{\text{Total Dollars Owed for Current Support in IV-D Cases}}$$

The scoring for this measure is very similar to the one used for the first and second measures. However, the lower threshold is 39% for this measure, as opposed to 49% for the previous measure. This lower threshold is based on an examination of current collection data.

### **Collections on Current Support**

<b>Performance Level</b>	<b>% of Maximum Incentive</b>
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (increases by 1% increments)	51% - 79% (increases by 1% increments)
40%	50%
39% and below	50% if at least 5% increase

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

### **COLLECTIONS ON ARREARS**

The fourth measure assesses efforts to collect money from those cases with an arrearage due. While the group wanted to emphasize the importance of collecting regularly the current support due to a family, they felt that it was important to include a measure that assessed the efforts to collect arrears owed.

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible." Some States aggressively seek judgments for unreimbursed assistance under State law. They also have different policies on case closure. Additionally, some States charge interest on arrears, which is considered additional arrearages, while others do not. In many cases, large arrearages already exist when an individual applies for assistance or seeks services under the program. Given these differences in practice, the group found no tenable method for completely leveling the playing field among the States. The measure selected comes as close as possible. In this measure, the group recognized the strong expectation of policy makers that inroads be made on the collection of the mounting arrearage.

The equation for this measure is below:

$$\frac{\text{Total number of IV-D cases paying toward arrears}}{\text{Total number of IV-D cases with arrears due}}$$

The scoring on this measure is similar to the previous two measures. However, there is a lower bottom threshold on this measure because of the difficulty in collecting on arrears cases, as seen evident in current performance data.

# INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

## Cases with Collections on Arrears

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (1% increases)	51% - 79% (1% increases)
40%	50%
39% and below	50% if 5% increase

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **COST EFFECTIVENESS**

The final measure assesses the total dollars collected in the Child Support Enforcement program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged. However, in the new incentive formula, unlike in current practice, total costs and collections are measured: there is no provision for separating assistance versus non-assistance collections over costs.

There are a number of reasons for looking at all costs together in the future. The greatest reason is the need to avoid continuing the perverse incentive in the current formula. States are better off under the current formula if families stay on public assistance. With welfare reform, the goal is fewer and fewer TANF cases as people move toward self-sufficiency. The formula should support, not subvert, this goal. It is also very difficult, and sometimes arbitrary, to reward these efforts separately.

The equation for cost effectiveness is as follows:

$$\frac{\text{Total IV-D Dollars Collected}}{\text{Total IV-D Dollars Expended}}$$

The incentives would be based on the scoring in the table below:

**Cost Effectiveness**

<b>CE Ratio</b>	<b>% of Maximum Incentive</b>
5.00 and above	100%
4.50 - 4.99	90%
4.00 - 4.49	80%
3.50 - 3.99	70%
3.00 - 3.49	60%
2.50 - 2.99	50%
2.00 - 2.49	40%
1.99 and below	0

This is the only measure for which there is no incentive given below a specific score, even if significant improvement occurs. The group felt that if the cost effectiveness ratio falls below 1.99, the State should earn no incentive because performance below that level is unacceptable.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **WEIGHTING THE MEASURES**

Each State will earn five incentives based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. After much discussion, the decision was reached to count the first three measures (paternity and order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "expanded collections" as defined below. Lower scores earn a proportion of the 1%. The last two measures are worth at a maximum .75% of the "expanded collections." Lower scores, again, earn a lower proportion of this .75%. The choice of 1% and .75% derive from the necessity of using a cost-neutrality factor that will ensure that the amount of incentive money paid out under the new formula approximates the amount that would be paid under the current system. Minor adjustments can be made in the percentages chosen, if necessary, when final CBO projections are made.

It should be noted that the weighting of the measures is one of the areas that people felt might need revisiting after the program is in effect for a few years. At that time, simplicity may dictate giving all measures an equal weight. Or, on the other hand, the Child Support Enforcement program may seek to emphasize one aspect of the program over others. Shifting the weights of the measures accomplishes that aim.

### **INCENTIVES BASED ON COLLECTIONS**

The current incentive system is based on total TANF collections and non-TANF collections capped at 115% of TANF collections. Non-TANF collections, as currently defined, includes collections from former TANF cases. There are several problems that States are experiencing with this formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the penalty continues. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of assistance cases and collections which would result in fewer incentive dollars available to the States. Another result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore, the incentive base ought to include all non-TANF cases without a cap.

The Work Group felt that it was especially important to ensure that States had significant incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

collection in TANF and former TANF cases is generally more difficult than in non-TANF cases, and non-TANF collections are rising at a faster rate, it is sensible to provide a heavier emphasis on collection in TANF and former TANF cases. In addition, collections in TANF cases provides direct savings to the State and Federal governments. Therefore, the Work Group recommends adding collections made on former TANF cases to collections made on TANF cases and doubling these collections in the formula to give them extra emphasis. This has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to States. The formula that the Work Group recommends is as follows:

$2(\text{TANF} + \text{former TANF}) + \text{non-TANF} = \text{expanded incentive collection base}$

\*non-TANF does not include former TANF

### **PHASE IN**

There is no question that certain States will lose money by using the new incentive funding formula, which is required to be cost neutral. To migrate from a system that guarantees a minimum incentive to everyone, regardless of performance, to a system that is based on rewarding performance, some States will receive lower incentives. To mitigate the loss of incentive funds that have been used to fund the program over the years, the group recommends that the new formula be phased in over a one year period. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old incentive formula and half of what it earns under the new proposed formula. In fiscal year 2001, the new formula would be fully implemented.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **EXAMPLE**

To illustrate the way the incentive funding formula would work, we will take the hypothetical case of the State of Xanadu. Let's assume that for Xanadu, the incentive funding base as defined previously is \$50,000,000. The incentive funding base is multiplied by the maximum values established for the measures, e.g., 1% for the first three measures and .75% for the last two measures. The product of that calculation is found in column B below. The following table illustrates the scores that Xanadu received on the five performance measures and their maximum value derived from standards tables for the five measures. Given these scores, the next step would be to multiply each score by the maximum value of the measure to get a total incentive amount.

<b>Measure</b>	<b>Xanadu Performance Level</b>	<b>Percentage of Incentive (A)</b>	<b>Maximum Value of Incentive (\$) (B)</b>	<b>Incentive Payment (\$) (A) x (B)</b>
1. Paternity	54%	64%	500,000	320,000
2. Order Establishment	79%	98%	500,000	490,000
3. Current Support	41%	51%	500,000	255,000
4. Arrears Cases Paying	40%	50%	375,000	187,500
5. Cost Effectiveness	\$3.00	60%	375,000	225,500
<b>TOTAL INCENTIVE EARNED</b>				<b>\$1,478,000</b>

### **CONCLUSION**

This report of the Incentive Funding Workgroup to the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century.

**APPENDIX**

**CHILD SUPPORT ENFORCEMENT  
INCENTIVE FUNDING WORKGROUP MEMBERS**

**Federal Representatives**

<u>Name</u>	<u>Organization</u>
Keith Bassett	HHS/ACF/OCSE
Sheck Chin	HHS/ACF/OCSE
Anne Donovan	HHS/ACF/OCSE
Robert Harris	HHS/ACF/OCSE
John Kersey	HHS/ACF/Region IX
Tom Killmurray	HHS/ACF/OCSE
Paul Legler	HHS/Office of the Secretary
Gaile Maller	HHS/ACF/OCSE
Elizabeth Matheson	HHS/ACF/OCSE
Joyce Pitts	HHS/ACF/OCSE
Tony Slade	HHS/ACF/Region V

**State Representatives**

<u>Name</u>	<u>State/Local</u>
Barry Bloomgren	Hennepin County, Minnesota
Tony DiNallo	Connecticut
Dianna Durham-McLoud	Illinois, Secretary/Treasurer, NCSCSEA
Wally Dutkowski	Michigan
Jerry Fay	Massachusetts, Vice President, NCSCSEA
Leslie Frye	California, Past President, NCSCSEA
Jim Hennessey	Iowa, President, NCSCSEA
Gordon Hood	Louisiana
Theresa Kaiser	Missouri
Cliff Layman	Maryland
Joyce McClaran	Tennessee
Nancy Mendoza	Arizona
Doris Sims	New Jersey
Glenda Straube	Alaska
Terry Walter	South Dakota

**HHS:** U.S. Department of Health and Human Services  
**ACF:** Administration for Children and Families  
**OCSE:** Office of Child Support Enforcement  
**NCSCSEA:** National Council of State Child Support Enforcement Administrators

## THE SOCIAL SECURITY ACT

### Sec. 458. Incentive payments to States

#### (a) Purpose; requirement; quarterly payments

In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of noncustodial parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e) of this section) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b) of this section.

#### (b) Incentive formula

(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to--

(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 608(a)(3) or section 671(a)(17) of this title (with such total amount for any fiscal year being hereafter referred to in this section as the State's title IV-A collections" for that year), plus

(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State's "non-title IV-A collections" for that year).

(2) If subsection (c) of this section applies with respect to a State's title IV-A collections or non-title IV-A collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year.

(3) The dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its non-title IV-A collections under paragraph (1)(B) (after adjustment under subsection (c) of this section if applicable) shall in no case exceed--

(A) the dollar amount of the portion of such payment which is determined on the basis of its title IV-A collections under paragraph (1)(A) (after adjustment under subsection (c) of this section if applicable) in the case of fiscal year 1986 or 1987;

(B) 105 percent of such dollar amount in the case of fiscal year 1988;

(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

(D) 115 percent of such dollar amount in the case of fiscal year

1990 or any fiscal year thereafter.

(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 655(a)(1)(A) of this title for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 655(a)(1)(A) of this title if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

**(c) Increase in percentage; laboratory costs**

If the total amount of a State's title IV-A collections or non-title IV-A collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 654 of this title for which payment may be made under section 655 of this title (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined title IV-A/non-title IV-A administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) of this section (with respect to such collections) shall be increased to--

(1) 6.5 percent, plus

(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds

1.4;

except that the percent so specified shall in no event be increased (for either title IV-A collections or non-title IV-A collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined combined title IV-A/non-title IV-A administrative costs for that year.

**(d) Support collected on behalf of individuals residing in another State**

In computing incentive payments under this section, support which is collected by one State at the request of another State shall be treated as having been collected in full by each such State, and any amounts expended by the State in carrying out a special project assisted under section 655(e) of this title shall be excluded.

**(e) Estimates by Secretary; quarterly payments**

The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to

which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated.

**THE PERSONAL RESPONSIBILITY  
AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996**  
[Public Law 104-193]

**SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.**

(a) **DEVELOPMENT OF NEW SYSTEM.**—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than March 1, 1997, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

\* \* \* \* \*



DATE: 3/19/97

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
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  - STEPHANIE WILSON
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REMARKS:

TESTIMONY OF LESLIE L. FRYE  
HOUSE WAYS AND MEANS COMMITTEE  
SUBCOMMITTEE ON HUMAN RESOURCES  
MARCH 20, 1997

I want to thank you, Mr. Chairman and members of the Subcommittee for the opportunity to provide California's perspective on the Secretary's proposed performance-based incentive system for the Child Support Enforcement Program. As we understand it, the proposal goes far beyond the Congressional intent to develop an incentive system that rewards good outcomes and in fact encourages states to recruit middle class families, never dependent on public assistance and never likely to be so, into their programs in order to maximize federal child support incentives.

As you know, the Secretary of the Department of Health and Human Services (DHHS) was directed by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to work with state IV-D directors to develop a performance-based incentive system for states' Child Support Enforcement Programs and report on the proposal to Congress by March 1, 1997.

This proposal does outline a broad-based incentive system which focuses on key program outcomes. These outcomes are *paternities established, support orders established, current support collected, arrearage collections and cost effectiveness*. We agree that these are appropriate outcomes to be measured for the purposes of paying incentives.

However the proposal also changes the way collections are counted for incentive purposes in a manner that is contrary to the principles underlying the PRWORA and that will lead to financial pressures on states to expand their Child Support Enforcement Programs to encompass all cases in the state, including those families who have never had to interact with government in order to pay or receive child support. Indeed, those states which already have near-universal government programs for child support will receive huge windfalls of incentives under the proposal, while states which historically concentrated on poor and near-poor families will lose federal incentive revenue, compared to the current system. California stands to lose two-thirds of its federal incentives, nearly \$60 million, if the proposal were implemented this year.

The current incentive system recognizes only one performance factor--cost effectiveness--and limits incentives on "non welfare" collections to an amount equal to 115 percent of "welfare" incentives. The rationale for this limit is to ensure that states will focus on the more difficult, less lucrative work of seeking child support on behalf of the poorest families.

The proposal broadens the relevant performance factors and removes the limit entirely on incentives for "never welfare" families. It does weight collections for welfare and formerly welfare families. Despite this weighting, states with significant proportions of "never welfare" families in their current caseloads will see their collections base, against which the incentive rate will be applied, triple or more overnight. In order to keep the proposal cost neutral overall, the

other variable in the equation--the incentive rate itself--must be lowered considerably, and it is this change that hurts states such as California. California will not see its collections base increase to anywhere near the extent of states with high ratios of "never welfare" collections. Therefore, California is hurt by the proposal due to its demographics and program policy to focus this government service on the most needy of its single parent families.

One way that California could mitigate the impact of the Secretary's proposal would be to amend state law to make it increasingly difficult for individuals to opt out of the governmental child support collection program. By recruiting "never welfare" families into the IV-D program, we too could benefit from earning incentives on collections for middle class families, which generally are easier to make and higher than collections for poor families. From a public policy point of view, however, we think this is wrong. We believe that Congress did not contemplate, in the PRWORA, creating a universal Child Support Enforcement Program. The demands on the IV-D program as a partner in helping families reach and sustain self sufficiency are significant, and it is toward these families that we believe our effort and our resources should be directed.

Mixing the issue of removing the limit on "never welfare" collections with the performance-based incentive system skews the results so that some states, notably those with near-universal child support programs, would receive more incentives for poorer performance, while states with greater proportions of welfare or former welfare families in their caseloads may not ever be able to earn incentives at the current rate, no matter how well they perform.

Because the new incentive system must be cost neutral compared with the current system, the rate at which states can earn incentives must be lowered substantially from current levels to accommodate the huge new base of collections eligible for incentives in states that are now affected by the limit on non welfare incentives. Since California does not gain much, if at all, from removing this limit, it only loses revenue due to the reduction of the percentage incentive rate it could achieve under the proposed system.

Only four states are particularly hurt by the removal of the limit on "never welfare" incentives. All have historically collected proportionately more for their welfare dependent customers than have other states. They are California, Connecticut, Maine and Rhode Island. In each of these states, "welfare" collections account for 40 percent or more of total collections. States which stand to gain the most from this proposal are those states where welfare collections account for 20 percent or less of total collections. In a letter to Secretary Shalala dated February 5, 1997, California Department of Social Services Director Eloise Anderson said, "I cannot support a proposal that has such a disparate and irrational effect on states."

There is a great deal of consensus within the IV-D community for two aspects of the Secretary's proposal: developing a performance-based incentive system and removing the limit on incentives for collections on behalf of former welfare recipients. We share in this consensus. However, the issue of completely removing the limit on incentives for "never welfare" families has not been widely discussed and there is no such consensus. We recommend that this policy issue be thoroughly considered by Congress and within the IV-D community before it is adopted. At a minimum, if Congress believes removing the limit has merit, it should be phased out in order to

address cost neutrality. Otherwise, states with higher proportions of welfare collections will be unavoidably hurt so that other states can receive windfalls.

It is our further recommendation that the performance-based system itself be phased in over a period not less than three years. Under the current time frames in the PRWORA, the new incentive system must be in place for Federal Fiscal Year 2000, which begins on October 1, 1999. The base year for developing the data on which incentives would be paid is Federal Fiscal Year 1999, which begins on October 1, 1998—just over 18 months from now. It is extremely doubtful that data definitions and reporting procedures can be standardized fully within that time frame, and it is extremely important that states be measured on a level playing field if the new system is to have integrity. If the new system is phased in over three years, states will have a longer period of time not only to retool their programs to succeed under the new system, but also to work out the disparate definitions and the reporting problems that have plagued the Child Support Enforcement Program for so many years.

In conclusion, I ask that the Subcommittee consider carefully the whole of the Secretary's proposal, including the removal of the limit on incentives for "never welfare" collections. I know that there are always going to be "winners and losers" when an allocation methodology is changed within the constraints of cost neutrality. However, I am concerned that the real losers are likely to be the very families Congress intended to help toward self sufficiency in the landmark legislation passed last summer. It would be a shame if the incentive system for the Child Support Enforcement Program subverted that effort.

I thank you for the opportunity to present our views and I would be happy to answer any questions the Subcommittee members may have.



DATE: 3/19/97

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

PHONE: (202) 690-7627

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*Urgent*

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  - STEPHANIE WILSON
  - HAZEL FARMER

REMARKS:

# Preliminary Data Child Support Incentive Funding

	Est. Incent. Rec'd in 1999 if Current Performance Does Not Improve	Incentives Rec'd FY 95 (Current Law)	Difference
Alabama	\$6,401,950	\$3,343,336	\$3,058,614
Alaska	3,179,895	2,660,126	519,769
Arizona	2,008,912	3,802,087	-1,793,175
Arkansas	3,364,557	2,742,645	621,912
California	20,191,442	55,525,751	-35,334,309
Colorado	4,944,778	4,953,245	-8,467
Connecticut	5,109,707	6,545,447	-1,435,740
Delaware	1,066,341	1,088,203	-21,862
D.C.	750,975	1,105,938	-354,963
Florida	9,721,165	13,835,642	-4,114,477
Georgia	11,419,099	12,057,518	-638,419
Hawaii	225,323	237,276	-11,953
Idaho	836,479	1,633,365	-796,886
Illinois	3,592,128	1,938,296	1,653,832
Indiana	3,385,111	9,571,066	-6,185,955
Iowa	4,025,195	8,799,520	-4,774,325
Iowa	8,682,920	6,313,926	2,368,994
Kansas	5,074,036	4,055,693	1,018,343
Kentucky	5,276,564	5,441,430	-164,866
Louisiana	4,811,098	3,892,591	918,507
Maine	3,154,610	4,890,770	-1,736,160
Maryland	2,645,598	6,700,304	-4,054,706
Massachusetts	13,554,814	18,786,514	-5,231,700
Michigan	37,789,095	23,890,047	13,899,048
Minnesota	17,840,015	8,978,834	8,861,181
Mississippi	1,884,466	3,184,706	-1,300,240
Missouri	12,054,084	8,353,345	3,700,739
Montana	1,290,087	1,203,806	86,281
Nebraska	3,928,857	1,617,266	2,311,591
Nevada	3,422,437	2,070,346	1,352,091
New Hampshire	2,506,229	1,405,837	1,100,392
New Jersey	24,793,362	12,376,537	12,416,825
New Mexico	547,963	1,424,673	-876,710
New York	25,988,389	25,622,035	366,354
North Carolina	10,038,883	10,660,026	-621,143
North Dakota	1,334,535	994,680	339,855
Ohio	45,832,895	16,366,642	29,466,253
Oklahoma	2,514,561	3,335,482	-820,921
Oregon	5,715,867	5,313,254	402,613
Pennsylvania	47,181,266	18,040,445	29,140,821
Puerto Rico	2,917,406	578,975	2,338,431
Rhode Island	1,654,871	2,660,332	-1,005,461
South Carolina	1,808,684	3,921,167	-2,112,483
South Dakota	1,844,126	1,207,332	636,794
Tennessee	4,385,098	6,778,739	-2,393,641
Texas	19,675,890	13,696,585	5,979,305
Utah	2,610,907	3,047,448	-436,541
Vermont	998,885	1,155,414	-156,529
Virgin Islands	129,070	56,803	72,267
Virginia	10,023,949	6,198,289	3,825,660
Washington	23,253,912	16,017,816	7,236,096
West Virginia	3,020,441	1,822,662	1,197,779
Wisconsin	22,487,128	12,420,932	10,066,196
Wyoming	739,970	819,457	-79,487
<b>U.S. Totals</b>	<b>\$470,805,825</b>	<b>\$387,084,381</b>	<b>\$83,721,444</b>

million and  
3/1/97

**DRAFT**

Notes:

1. Data is based on 1995 performance reported by the state.
2. Some states do not report all data.
3. Continuing automation should improve future state data.
4. States have 3 years to improve performance.
5. 1999 incentives are estimated at \$470 million (CBO estimate).
6. 1995 actual incentives were \$387 million.

**DRAFT**

Rich

Pont + Deborah Colton have asked  
for ~~data~~ \$ state by comparison

CA

Conn-

FL

IL

Miss-

NM

Tennessee

Est incentive  
received in '99  
if performance  
does not change

If don't give them, get slammed  
if do give them, focus press  
on \$ lost

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Leslie has \$s already - on team



Add to page 1

Page 1, paragraph 3. ~~After, "Since taking office, President Clinton has cracked down on non-paying parents and strengthened child support enforcement, resulting in record child support collections."~~ ~~add,~~ "In 1993, President Clinton proposed, and Congress adopted, a requirement that states establish hospital-based paternity programs as a proactive way to establish paternity early in a child's life. ~~Paternity establishment rates have risen dramatically in the last four years, nearly doubling to a record 1 million paternities established in 1996.~~ A series of Presidential directives and executive orders has made the federal government a model employer in the area of child support enforcement, directed the Treasury Department to offset child support debts against most federal payments, and sent a strong message through a variety of means, including "Wanted Lists" in Post Offices and Internet links, that failure to pay child support will not be tolerated." *In addition,*

Correction

LRM ID: MDH38  
Incentive Funding

SUBJECT: HHS Testimony on HHS Report on Child Support Enforcement

**RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM**

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

You may also respond by:

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

(2) sending us a memo or letter

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

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Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM:

3/17/97 (Date)  
Cynthia Rice (Name)  
WHouse DPC (Agency)  
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**CORRECTED  
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The following is the response of our agency to your request for views on the above-captioned subject:

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- No Comment
- See proposed edits on pages 5+1

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FAX RETURN of 3 pages, attached to this response sheet

*see p. 3 of  
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**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001**

Friday, March 14, 1997

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:** Legislative Liaison Officer - See Distribution below

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

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

**SUBJECT:** HHS Testimony on HHS Report on Child Support Enforcement Incentive Funding

**DEADLINE:** 4 PM Monday, March 17, 1997

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

**COMMENTS:** Attached is HHS (Ross) testimony on the Administration's recommendations to revamp the child support incentive payment system. This testimony will be given on March 20th before the House Subcommittee on Human Resources.

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**STATEMENT BY**

**DAVID GRAY ROSS**

**DEPUTY DIRECTOR**

**OFFICE OF CHILD SUPPORT ENFORCEMENT  
ADMINISTRATION FOR CHILDREN AND FAMILIES  
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**BEFORE THE**

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

**MARCH 20, 1997**

Mr. Chairman and members of the Committee: I want to thank you for giving me the opportunity to testify today on the Administration's recommendations for revamping the incentive system for State child support enforcement programs. The Administration is committed to timely and effective implementation of the new welfare reform law and we view the incentive report as an important early step in our efforts.

The Administration and this Committee are in full agreement that child support is an essential part of welfare reform. It sends a message of responsibility to both parents and is a vital part of moving families toward work and self-sufficiency. Once families have attained independence, child support can keep them from falling back onto public assistance rolls. Child support also acts as a safety net to ensure that single parent families don't need assistance in the first place. We are proud of this Administration's record on child support enforcement and anxiously await the positive results that the new provisions will bring to further meet these critical goals.

President Clinton has made improving child support enforcement and increasing child support collections a top priority. Since taking office, President Clinton has cracked down on non-paying parents and strengthened child support enforcement, resulting in record child support collections. The Justice Department is investigating and prosecuting cases where parents cross state lines to avoid payment under the Child Support Recovery Act. <sup>As a result,</sup> In FY 1996, \$12 billion in child support was collected on behalf of the children of America. This amount exceeded the President's Budget projection of \$11.5 billion and represented a 50 percent increase in child

[Add here <sup>the attached</sup> 3-4 more sentences citing Administration's actions in OBRA 193, executive orders, and initiatives]

~~\_\_\_\_\_~~

support collections since FY 1992. Since FY 1992, the number of paying child support cases has increased by 36 percent. These accomplishments are impressive, but projections on the impact of the new provisions tell us they are only the beginning.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) includes the tough child support measures President Clinton called for from the start and child support enforcement at the Federal and State levels is being transformed by these measures. Many States have already taken steps to implement the new federal requirements. Forty-three States have license revocation programs in place. Thirty-five States have recently enacted the Uniform Interstate Family Support Act. And twenty-six States have adopted some form of reporting of new hires.

At the Federal level, we have made great progress in making the expanded Federal Parent Locator Service (FPLS) a reality. We have entered into contracts with several nationally recognized and respected vendors to help us design and develop the expanded FPLS, manage the project and enhance our quality assurance efforts, and assist us with providing training and technical assistance to state agency users.

Finally, as required under PRWORA, we worked with the States to develop a new incentive funding structure that rewards results and submitted our Child Support Enforcement Incentive Funding Formula report to Congress last week. That report is the focus of my testimony today.

### Child Support Enforcement Incentive Funding

I am happy to report that since my last appearance before this Committee on September 19, 1996, our collaborative effort with the States to develop a new incentive funding system for the child support enforcement program has been successful. The jointly-developed, revenue neutral incentive funding proposal is tough and would push States to improve performance. This formula will ensure good outcomes for families and has a broad consensus among the States and other child support enforcement stakeholders.

The current incentive funding system is based on maximizing child support collections relative to administrative costs. A minimum incentive payment is made to all States regardless of whether performance is good or poor. Currently, States can run inefficient programs and still receive large amounts in incentives. We all recognize that this does not create a significant incentive for the achievement of program goals. An improved results-based incentive system would take into account other measurable program results such as paternity establishment, order establishment, and collections.

Our effort to develop a performance-based incentive system dovetailed with our thriving State-Federal partnership and our effort to become a results-oriented program, as envisioned by the Government Performance and Results Act (GPRA) of 1993. OCSE has completed the

2 year pilot phase of its implementation of GPRA during which we forged a Federal-State partnership that has accomplished much. I would like to briefly highlight our accomplishments.

Federal and State partners have developed and reached consensus on a National Strategic Plan with a mission, vision, goals and objectives.

Federal and State partners reached consensus on outcome measures for each of the Strategic Plan goals and objectives so that progress can be tracked.

The majority of States have entered into partnership agreements with ACF Regional Offices that detail performance goals, technical assistance initiatives, and a shared commitment to working together.

OCSE and the association of State child support program directors have entered into a partnership agreement that emphasizes communication, joint planning, and co-responsibility for improving America's child support enforcement program.

Building on this new foundation of partnership with the States forged during the GPRA pilot, we convened a group of State and Federal partners to meet the Congressional charge to the Secretary of HHS to change the incentive funding system. The workgroup included 15 State

and local child support directors and 11 Federal central and regional office representatives.

The workgroup met November through January. Of the 14 State directors, 10 agreed to represent <sup>not</sup> only their own States but also other States in their region. After each workgroup meeting, the representatives consulted with the States in their region and brought that feedback to the next meeting to assure the broadest possible consensus. Progress of the workgroup was also shared with the American Public Welfare Association and advocacy groups.

The workgroup developed an incentive funding formula that rewards States for their performance in five critical areas: paternity establishment, support order establishment, collections on current support, collections on support past due (arrearages), and cost effectiveness. These measures are consistent with the legislated mission of the program and the Strategic Plan and its outcome measures. There is full consensus from State partners that these measures represent the appropriate focus for the program.

The workgroup also established performance standards for each of the measures. These standards would determine the amount of incentive a State would receive for a certain level of performance and reward States for maintaining high performance or making substantial gains in improving their performance. The standards are designed to provide tough but reachable targets for performance by rewarding States with higher incentives as they improve. The standards for the first four measures include a performance threshold. Under this <sup>plan</sup> scheme, and unlike the current system, no incentive would be paid unless a State achieves a significant improvement in performance. For the final measure on cost effectiveness, if a State collects

less than two dollars for every one dollar expended, no incentive would be paid.

Each State would earn five scores based on performance on each of the five measures.

Workgroup members believed all the measures were important, but the first three measures -- paternity establishment, support order establishment and collections on current support -- were critical. Paternity establishment and support order establishment are prerequisites of collecting current support, which is essential for family self-sufficiency. Performance on the first three measures could earn a slightly higher incentive than the last two measures -- collections on arrearages and cost effectiveness.

The amount of potential incentive payments for each measure available to each State would be based upon a percentage of its own State child support collections -- its "collections base."

The collection base includes collections in both Temporary Assistance to Needy Families (TANF) cases and nonassistance cases. The collections base also includes collections made for families who were never on assistance. However, we recommend that collections in TANF cases and former TANF cases be weighted double, e.g., every dollar collected counts as \$2. Counting collections for incentives purposes in this way accomplishes three objectives:

States with large former TANF caseloads would no longer be penalized by a cap as in the current formula. Many States are moving families off welfare and their success is not being recognized because of this cap under current law.

States would have a strong incentive to pursue action on TANF cases and former TANF cases. For these families, child support is critical to achieving independence and not returning to public assistance rolls.

Direct savings to State and Federal governments result from collecting child support in TANF cases. Costs of other public benefit programs such as Food Stamps and Medicaid could also be avoided by making collections in these cases.

Because this system would for the first time be performance-based, some States would naturally lose incentives by moving to the new system. To mitigate this loss, we recommend that the formula be phased in over two years. For FY 2000, a State would earn half of what it would have earned under the old formula and half of what it earns under the new calculation. In FY 2001, the new formula would be fully implemented. This would give

States more time to adjust their programs, budget for any financial impact and improve their performance. Of course, the Office of Child Support Enforcement would continue to work with States to assist them during this transition.

The workgroup was concerned that with the enactment of welfare reform, the child support enforcement program is likely to change dramatically in the next few years. Therefore, the report recommends that the child support program's results and effects of the new incentive system should be reviewed periodically. Limited discretion should be granted to the Secretary of Health and Human Services to make appropriate changes, in consultation with the States, based on the program's actual results and effects every three to five years.

The workgroup's report includes recommendations with respect to other aspects of program funding beyond incentives. We have endorsed the workgroup's recommendations with respect to the incentive formula itself, but have reserved judgment on other aspects of the recommendations because further work may be needed on broader program funding issues. For example, we are committed to working with States and the Congress to develop legislation, if necessary, to ensure that State flexibility under TANF does not result in costs to the Federal Government due to the potential loss of child support collections.

Finally, in keeping with the mandate that the new incentive funding formula be cost neutral, we have ensured that the new incentive formula would not cost more than the current formula. During the legislative process, if subsequent cost estimates show that the formula is not cost

neutral, adjustments up or down can be made. We have indicated in the report that we will work with the Office of Management and Budget and our State partners to develop an automatic adjustment mechanism to ensure cost neutrality.

### **Conclusion**

We now have the groundwork in place for a more results-oriented management of the National child support enforcement program. We strongly urge Congress to pass legislation on the recommended incentive funding system to allow the child support enforcement program to truly be driven by achieving results for families and children in need of support.

The work accomplished to present this report through State-federal partnership is representative of past collaboration and the future direction that we will take together to strengthen the program and improve the lives of children.

In conclusion, Mr. Chairman, let me restate:

The recommended incentive funding formula, developed in consultation with the States, would reward performance and remain revenue neutral. It is tough but fair and will lead to positive results for families.

The new incentive funding formula would complement the results-oriented State-Federal partnership that has already successfully piloted the Government Performance and Results Act.

The Administration is committed to working with States and the Congress to address TANT maintenance of effort issues which may result in costs to the Federal Government due to the potential loss of child support collections.

I want to thank the Committee for your work on behalf of America's children. Their future will be significantly improved because of the new collection tools and other reforms required of States by welfare reform.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget  
Associate Director for Human Resources  
260 Old Executive Office Building  
Washington, DC 20503

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## **Child Support Enforcement Incentive Funding Formula**

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recommendations for a new incentive funding system on the foundation of the national Strategic Plan.

### **PERFORMANCE MEASURES AND STANDARDS**

The new incentive system measures State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness. There was a consensus among the Work Group members that these are the five most important measures in determining the success of the child support enforcement program. These five measures are nearly identical to the measures proposed in the major welfare bills introduced in the past few years, including the Work and Responsibility Act of 1994 and the Personal Responsibility Act of 1996. The specific equations for each of these five measures were developed by the Incentive Funding Work Group relying, in large part, upon the national Strategic Plan. Thus, these measures reflect a widespread consensus among child support professionals regarding the major factors we ought to be measuring to determine success of the child support program.

The new incentive system provides rewards to States for effective paternity establishment programs. This is not intended to weaken the provisions of PRWORA that penalize States that do not improve their performance in paternity establishment. The incentive for paternity establishment assures that resources are put into the child support program based on State performance, while the penalty taken against the TANF grant assures State compliance with the paternity establishment requirements of PRWORA.

The new incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure is based upon established standards of performance. The Work Group sought to create standards that rewarded both high performing States for maintaining and improving on their success and encouraged poor performing States to improve their results. Accordingly, the Work Group considered both past performance and trends and data estimates for the future in establishing the performance standards. The performance standards adopted reflect three objectives: (1) incentives should increase as performance improves; (2) states performing at the very highest level that we can reasonable expect should receive the maximum incentive for that performance measure; and (3) there should be a minimum threshold of performance for each measure except that States below the threshold showing very significant improvement in performance should be rewarded with some incentive.

For each standard, there is an upper threshold for the program to achieve, most often set at 80 percent (and 5.00 for the cost effectiveness ratio). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for using an 80 percent standard include, a recognition that there are factors

## Child Support Enforcement Incentive Funding Formula

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was reached to count the first three measures (paternity establishment, order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "collection base" as defined below. Lower scores earn a percentage of the 1%. The last two measures are worth at a maximum .75% of the collection base. Lower scores, again, earn a lower proportion of this .75%.

Added together, the three measures at 1% and two measures at .75% equal 4.5% of the collection base. Cost neutrality mandates that a new incentive formula will not cost more than the current formula. Allotting a possible total of 4.5% of the collection base keeps the new formula cost neutral. Preliminary estimates of incentive funding payments under the recommended formula are within the range of Congressional Budget Office projections under current law. At the time legislation is introduced, if subsequent cost estimates show that the formula is not cost neutral, adjustments up or down can be made to the 4.5% to assure cost neutrality. For example, if new estimates show a decrease in the Federal share of collections due to State behavioral effects, an adjustment may need to be made. In addition, the incentive effects of paying incentives on never-assistance cases may have to be considered in making cost-neutrality adjustments to the formula.

### THE COLLECTION BASE

The current incentive system is based on a percentage of total TANF collections plus non-TANF collections capped at 115% of TANF collections. Collections for incentive purposes include those made on behalf of other States. There are several problems that States are experiencing with the current formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are effectively being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the effect of the cap is aggravated. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of incentive dollars available to the States. A related result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore the incentive base ought to include all non-TANF collections without a cap as well as allowing States to count interstate collections.

The Work Group also felt that it was especially important to ensure that states continued to have strong incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since collection in TANF and former TANF cases is generally more difficult than in non-TANF

## **Child Support Enforcement Incentive Funding Formula**

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**PRWORA.** Additional Federal and State efforts are critical before FY 2000 to ensure States produce reliable data upon which incentive funding will be based. The need to preserve the flexibility to adjust the formula in future years, based on actual results of the changing world under PRWORA, is built into the proposal. Flexibility is also needed to consider different or additional measures, such as one that looks at how child support collections avoid costs in other public benefit programs.

### **CONCLUSION**

This report of the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century. We will work with Congress during the legislative process to enact a new incentive funding formula. The forwarding of this Report and its recommendations recognizes the need to keep the momentum needed to ensure the success of the child support program while emphasizing that further work needs to be done to address additional issues in the context of the changing texture of State TANF and child support programs. We have begun, and will work quickly with the Congress and Governors, to resolve those related issues.

Attachment: Incentive Funding Workgroup Report to the  
Secretary of Health and Human Services

CM -

cc: Kagan, Jennings, Burke, Dyer, Rice  
+ return

BR

THE WHITE HOUSE  
WASHINGTON

THE PRESIDENT HAS SEEN  
3/31/97

March 1, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR/eh*

SUBJECT: DPC WEEKLY REPORT

**Handgun Safety Lock Directive:** A key provision in your Anti-Gang and Youth Violence Bill requires all Federally-licensed gun dealers to sell a safety locking device with every handgun. (A 1991 GAO study found that such devices could prevent one-third of all deaths resulting from accidental shootings.) To focus attention on this issue, we are preparing a directive that would require agencies to provide safety locks to all federal law enforcement officers, so that the officers can protect their children against accidental shootings. This directive would make the Federal government a model for the nation in promoting use of safety locks.

*X*  
*good*

**Seat Belt Study:** The Department of Transportation will give you a report on March 10 on ways to increase seat belt use. Increasing belt use by only 15 percentage points -- from 68% to 83% -- would save over 2000 lives each year. DOT's report is likely to urge you to: offer financial incentives to states, consistent with our budget proposal, to improve and enforce seat belt laws; set an ambitious national goal for seatbelt use; and challenge the private sector to fund passenger safety education. DOT is working to get some private sector commitments now, so that you can announce them when you accept the recommendations contained in the report.

*good*

**Patients' Bill of Rights/Quality Commission:** We will be ready soon -- probably around March 10 -- to announce the members of the Advisory Commission on Quality and Consumer Protection in the Health Care Industry, which you will charge with developing a Patients' Bill of Rights. We can combine announcement of the Commission with the release of an HHS regulation that would guarantee an expedited appeal whenever a plan proposes to deny care that a Medicare patient believes is urgently needed.

*OK*

**Medicare Fraud Legislation:** HHS and DOJ jointly announced on February 25 a settlement agreement requiring a laboratory operation that had committed massive medicare fraud to pay \$300 million to the government. The settlement brought to over \$800 million the total amount recovered by Operation Labscam, a joint investigation of Medicare fraud undertaken by the two departments. These aggressive enforcement efforts prepare the way for a legislative proposal on medicare fraud that we could unveil as early as the week of March 10. This proposal, which we are currently working with HHS to finalize, would give the government new tools to go after Medicare fraud by requiring certain suppliers of health care services to provide identification numbers and to post bonds. We could announce this initiative in a radio address when you travel to Florida in the middle of March; alternatively, we could focus then on our children's initiative,

*good*

which would greatly assist Florida's efforts to expand coverage for children.

**Child Support Enforcement:** HHS will soon be ready to submit to Congress a report required under the new welfare law recommending an incentive funding system, based on program performance, for state child support enforcement programs. The report recommends that incentive payments hinge on state performance in five areas: establishment of paternity, establishment of child support orders, collections on current child support due, collections on past child support due, and cost effectiveness. We can couple submission of this report with the release of new state-by-state data showing that child support collections have increased by more than 50% over the last four years.

LRM ID: MDH18

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

**SPECIAL**

Thursday, February 27, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

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

SUBJECT: HHS Proposed Report on Child Support Enforcement Incentive Funding

DEADLINE: NOON Monday, March 3, 1997

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

COMMENTS: HHS has asked that OMB provide it with clearance to transmit its report making recommendations for a new incentive funding system for State child support enforcement programs by March 3rd. (Note that the welfare reform law (P.L. 104-193) requires the submission of this report to the Congress by March 1st.)

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  - Janet R. Forsgren

*To Cynthia*



**DRAFT**

**REPORT TO THE  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS  
AND THE  
SENATE COMMITTEE ON FINANCE:  
CHILD SUPPORT ENFORCEMENT  
INCENTIVE FUNDING**



**February, 1997**

## Child Support Enforcement Incentive Funding Formula

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### INTRODUCTION

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services (HHS), in consultation with State directors of IV-D programs, to recommend to Congress a new incentive funding system for the State child support enforcement programs which is to be based on program performance.

In order to consult with State IV-D directors, an Incentive Funding Work Group was formed consisting of 15 State and local IV-D directors and 11 Federal staff representatives from the U.S. Department of Health and Human Services. The Work Group held a series of meetings and worked over a period of three months to come up with the recommendations for the new incentive funding system. State representatives on the Work Group also consulted with State IV-D programs not represented directly on the Work Group. The recommendations of the Work Group represent a consensus (although, not necessarily, unanimous agreement) on the new incentive funding system. The report of the Incentive Funding Work Group is attached hereto. The Secretary of Health and Human Services fully endorses the incentive formula set forth in the Incentive Funding Work Group Report, recognizing that Work Group consensus depends on adoption of all Work Group recommendations. This report of the Secretary of Health and Human Services makes recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate based upon the report of that Work Group and addresses the need for further work in areas beyond the scope of the Work Group's charter.

The Work Group's Report includes recommendations with respect to other aspects of program funding, beyond incentives, for example, a recommendation that the level of Federal financial participation in State program expenditures remain at 66 percent. Because further work may be needed on broader program funding issues, we are sending the Work Group recommendations forward for consideration by the Congress, recognizing the importance of consensus and endorsing the Work Group's recommendations with respect to the incentive formula itself, while reserving judgment on those aspects of the recommendations that address broader program funding issues. We are committed to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform. Divergence choices made by States could impact the source of incentive payments, i.e., the Federal share of collections. We are committed to working with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

### SUMMARY OF RECOMMENDATIONS

- **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, estab-

## Child Support Enforcement Incentive Funding Formula

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ishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.

- **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.
- **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.
- **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.
- **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.
- **Maintain FFP.** The Work Group recommends that the Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent. As discussed above, further work on larger program funding issues is needed before commitment to the current level of Federal funding of program costs.
- **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

### BACKGROUND

Under Section 458 of Title IV-D of the Social Security Act, States are currently paid as an incentive a minimum of six percent of their AFDC collections and six percent of their nonAFDC collections. There is also the potential to earn up to 10% of collections based on the State's cost effectiveness. However, the total amount of nonAFDC incentives is capped at 115% of the AFDC incentive.

This current incentive system has been criticized because it is focused on only one aspect of the IV-D program. The incentives are paid based only on a State's cost effectiveness and all States receive a base rate regardless of performance. Most child support experts believe that this incentive system has no real incentive effect because all States receive the minimum six

## Child Support Enforcement Incentive Funding Formula

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percent of incentives. This incentive system also does not reward states for other important aspects of child support enforcement, such as paternity establishment.

Over the past decade, a number of commissions and organizations have recommended the adoption of a new performance based incentive system. In 1988 Congress authorized the creation of the U.S. Commission on Interstate Child Support to make recommendations to Congress on improving the child support program. When the Interstate Commission issued its report in August, 1992 it called for a study of the federal funding formula and a change of the incentive structure to one based upon performance. Other national organizations, including the National Conference of State Legislatures, the American Public Welfare Association, the National Governor's Association, and several national advocacy organizations have also recommended the adoption of a new performance based incentive system.

In June, 1993 President Clinton established a Working Group on Welfare, Family Support, and Independence to come up with a welfare plan, including child support enforcement reform. The plan, detailed in the proposed Work and Responsibility Act of 1994, would have required the Secretary of Health and Human Services (HHS) to set performance standards for State IV-D programs and reward states with high performance. Other major child support enforcement bills introduced in 1994, 1995, and 1996 by both Republican and Democratic members of Congress included similar provisions.

As a result, section 341 of the PRWORA requested the Secretary to consult with IV-D directors and recommend changes: The law states:

- ▶ The Secretary of Health and Human Services, in consultation with State directors of child support enforcement programs shall develop a new incentive funding system, in a revenue neutral manner;
- ▶ The new system shall provide additional payments to any State based on such State's performance under such a program; and
- ▶ The Secretary shall report to Congress on the new system by March 1, 1997.

The Incentive Funding Work Group was formed in October, 1996 consisting of 15 State and local IV-D directors or their representatives and 11 Federal staff representatives from the U.S. Department of Health and Human Services. This collaborative approach drew upon the partnership forged during the Federal Office of Child Support Enforcement's pilot of the Government Performance and Results Act (GPRA). Earlier efforts of this State-Federal partnership produced a five-year national Strategic Plan for the child support enforcement program and a set of outcome measures to indicate the program's success in achieving the goals and objectives of the Strategic Plan. Using the same collaboration and consensus-building approach, the joint Work Group effort between State and Federal partners built its

## Child Support Enforcement Incentive Funding Formula

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recommendations for a new incentive funding system on the foundation of the national Strategic Plan.

### PERFORMANCE MEASURES AND STANDARDS

The new incentive system measures State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrears), and cost effectiveness. There was a consensus among the Work Group members that these are the five most important measures in determining the success of the child support enforcement program. These five measures are nearly identical to the measures proposed in the major welfare bills introduced in the past few years, including the Work and Responsibility Act of 1994 and the Personal Responsibility Act of 1996. The specific equations for each of these five measures were developed by the Incentive Funding Work Group relying, in large part, upon the national Strategic Plan. Thus, these measures reflect a widespread consensus among child support professionals regarding the major factors we ought to be measuring to determine success of the child support program.

The paternity establishment measure and standards in particular require some explanation. Under the statutory Paternity Establishment Percentage, states are penalized if they do not demonstrate a certain percentage of improvement over the previous year. The Incentive Funding Workgroup decided to award incentives to States that may have maintained their high performance but did not improve enough to avoid the penalty. The Workgroup did not want to multiply the impact of the penalty standards by using them to determine the award of incentives. This approach would have resulted in some high performing States losing all their paternity incentive simply because they did not improve enough to avoid the penalty. If the award of incentive payments were linked to the minimum improvement needed to avoid a penalty, a high performing State would not receive an incentive payment and also have a penalty assessed. For example, Texas achieved a paternity establishment percentage of 82% in FY 1994. In FY 1995, performance improved by 1% to 83% — not enough to avoid a penalty. The decision to reward State performance (whether sustained high performance or significant improvements in performance), regardless of whether a State could be subject to a penalty, is supportable on the low end of State performance as well. Should a low performing State fail to improve performance enough to avoid a penalty, the State would have to improve performance at least by 10% to earn an incentive.

The new incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure is based upon established standards of performance. The Work Group sought to create standards that rewarded both high performing States for maintaining and improving on their success and encouraged poor performing States to improve their results. Accordingly, the Work Group considered both past performance and trends and data estimates for the future in establishing the performance standards. The performance standards adopted reflect

## Child Support Enforcement Incentive Funding Formula

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three objectives: (1) incentives should increase as performance improves; (2) states performing at the very highest level that we can reasonable expect should receive the maximum incentive for that performance measure; and (3) there should be a minimum threshold of performance for each measure except that States below the threshold showing very significant improvement in performance should be rewarded with some incentive.

For each standard, there is an upper threshold for the program to achieve, most often set at 80 percent (and 5.00 for the cost effectiveness ratio). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for using an 80 percent standard include a recognition that there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. There was consensus that 80% is a level that states can realistically strive to achieve. For example, in some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e. \$5 of child support is collected for each \$1 spent to collect it).

At the lower end of the scale in each case, there is a minimum level below which performance would not be rewarded. These lower limits were set by examining current performance data. However, if a State can demonstrate a substantial improvement over the prior year's performance, that improvement would entitle the State to some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) As a result, those states with lower performance levels will at least receive some incentive provided that the program is moving sufficiently quickly in the right direction.

The upper and lower thresholds for performance are based on analysis of State performance data and projections. The work group recommended that, in the future the formula be reviewed and adjusted, if necessary. Should actual experience demonstrate, for example, that the majority of States easily achieve the highest performance standard in a particular measure, then the formula should be reevaluated to see that it rewards improvement.

A brief description of the measures follows. The equations and standards are included in the workgroup report.

## **Child Support Enforcement Incentive Funding Formula**

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### ***PATERNITY ESTABLISHMENT***

The measure for paternity establishment is identical to that included by Congress in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for purposes of paternity establishment penalties.

### ***CASES WITH SUPPORT ORDERS***

Establishing an order to pay child support is a critical first step to collecting support for families. This measure shows how much of a IV-D agency's caseload is capable of being enforced and how well the agency is keeping up with case backloads and intake.

### ***COLLECTIONS ON CURRENT SUPPORT***

The third measure focuses on the proportion of current support due that is collected on IV-D cases. It gets to the heart of the program: regular and dependable support payments to families.

### ***COLLECTIONS ON ARREARS***

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible."

### ***COST EFFECTIVENESS***

The final measure assesses the total dollars collected in the child support program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged.

### ***WEIGHTING AND COST NEUTRALITY***

Each State will earn five scores based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. Therefore, the decision



## Child Support Enforcement Incentive Funding Formula

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has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to states. The formula recommended is therefore:

$$2(\text{TANFS} + \text{former TANFS}) + \text{non-TANFS}^* = \text{collection base}$$

\*nonTANF does not include former TANF

### PHASE IN

By definition, some states will lose incentives by changing to a new incentive funding formula that is both performance based and cost neutral. To mitigate the loss, the Work Group recommended that the formula be phased in. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old formula and half of what it earns under the new calculation. In fiscal year 2001, the new formula would be fully implemented. The extra year will provide those States affected to absorb reduced revenue while improving performance.

### REINVESTMENT OF INCENTIVES IN CHILD SUPPORT PROGRAM

Currently, incentives earned by the State child support programs do not have to be reinvested in State programs. The result is that money that comes from the Federal investment in the child support program can end up being used for other purposes. The Work Group strongly recommended that States be required to reinvest federal dollars into the child support enforcement program. This would ensure continued improvement, adequate resources, and the maintenance of high performance levels.

### FEDERAL FINANCIAL PARTICIPATION

Currently, the Federal government pays 66% of the administrative cost of the child support program. As a result of both Federal and State efforts over the past four years, child support collections and paternity establishment has reached record levels. Yet, we still have a long way to go to improve the program to where it should ultimately be. The PRWORA requires that States implement many changes to improve the operations of their programs. The Work Group believes strongly that continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges. However, before endorsement of this funding level, we intend to follow through on our commitment to discussions on the broader program funding issues which arise under State flexibility under the TANF program.

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## **Child Support Enforcement Incentive Funding Formula**

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### **REVIEW MECHANISM**

There were two major difficulties that faced the Work Group in developing an incentive funding formula for the future. First, the Work Group recognized that it was making a recommendation for a formula that would not be put into effect until FY 2000. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the child support enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Therefore, the child support program's results and effects of the new incentive system should be reviewed periodically. Limited discretion should be granted to the Secretary, to make appropriate changes, in consultation with the States, based on the program's actual results and effects every three to five years.

### **NEXT STEPS**

We recognize that Work Group consensus depends on adoption of all their recommendations. We fully endorse the elements of the formula itself. However, the Work Group included recommendations with respect to other aspects of program funding. Because further work is needed on broader program funding issues, we are sending the Report forward with a commitment to working with the Congress on broader funding issues arising from the changing nature of the relationship between the TANF and child support programs under welfare reform.

In addition, bifurcation choices made by States could impact any incentive funding formula. The Federal share of collections will continue as the source of incentive payments. Depending on how States structure Temporary Assistance to Needy Families programs, the Federal share of collections could be reduced, threatening the source of incentive payments. Currently, the Federal share of collections for FY 1996 is approximately \$1.297 billion, of which \$409 million is paid to States in incentives. We will work with the Governors and the Congress to identify approaches that will ensure that States do not use the flexibility provided to retain Federal dollars in State coffers. Within 90 days of the submission of this report, the Administration will propose a legislative solution to this funding problem.

Finally, the work group recognized that the predictive ability of data and cost estimates is limited given current data and the impact of such factors as future demographic trends and PRWORA. Additional Federal and State efforts are critical before FY 2000 to ensure States produce reliable data upon which incentive funding will be based. The need to preserve the flexibility to adjust the formula in future years, based on actual results of the changing world under PRWORA, is built into the proposal.

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## Child Support Enforcement Incentive Funding Formula

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### CONCLUSION:

This report of the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century. The forwarding of this Report and its recommendations recognizes the need to keep the momentum needed to ensure the success of the child support program while emphasizing that further work needs to be done to address additional issues in the context of the changing texture of State TANF and child support programs. We have begun, and will work quickly with the Congress and Governors, to resolve those related issues.

Attachment: Incentive Funding Workgroup Report to the  
Secretary of Health and Human Services

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**INCENTIVE FUNDING WORK GROUP:  
REPORT TO THE SECRETARY OF HEALTH AND  
HUMAN SERVICES**

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**January 31, 1997**

**TABLE OF CONTENTS**

	<u>Page</u>
Introduction . . . . .	1
Summary of Recommendations . . . . .	2
Principles . . . . .	3
Considerations . . . . .	7
General Themes . . . . .	8
Paternity Measure . . . . .	9
Cases With Support Orders . . . . .	11
Collections on Current Support . . . . .	12
Collections on Arrears . . . . .	13
Cost Effectiveness . . . . .	15
Weighting the Measures . . . . .	16
Incentives Based on Collection . . . . .	16
Phase In . . . . .	17
Example . . . . .	18
Conclusion . . . . .	18
<b>Appendix</b>	
<b>List of Incentive Funding Work Group Members</b>	
<b>Social Security Act Section 458</b>	
<b>Personal Responsibility and Work Opportunity Reconciliation Act Section 341</b>	

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires the Secretary of Health and Human Services, in consultation with directors of State Child Support Enforcement (IV-D) programs, to recommend to Congress a new incentive funding system for the States which is to be based on program performance.

This report summarizes the recommendations of the Incentive Funding Work Group, which was convened by the Office of Child Support Enforcement (OCSE) in the Administration of Children and Families (ACF) at the Department of Health and Human Services. The Work Group, which consists of 26 representatives of State and local IV-D programs, HHS regional offices, and the OCSB central office met three times between November, 1996 and January, 1997. Between each of these meetings, the Work Group circulated its decisions and recommendations among all of the other States, region by region, and got feedback and reactions to decisions which were then incorporated into the discussion and recommendations of the following session. This report includes the final recommendations of the Work Group. With the exception of one dissenting State, the group reached consensus on these final recommendations.

The recommendations of the Incentive Funding Work Group were built on the earlier efforts of a joint OCSE-State Performance Measures Work Group, which met between March 1995 and July 1996. These efforts grew out of the work that had been done by OCSB and the States, as part of a pilot program for the Government Performance and Responsibility Act, to develop a five year National Strategic Plan for the Office of Child Support Enforcement and its State partners.

The Incentive Funding Work Group recommends that five key performance measures be used to evaluate each State's performance and measure results in the Child Support Enforcement program. These measures emphasize paternity establishment, support order establishment, collection of current support, collection of arrearages, and cost effectiveness. Incentives would be paid to the States based on each State's weighted scores on each of these measures and calculated and paid as a percentage of the State's child support collections. The details of this formula will be discussed below.

The Incentive Funding Work Group urges that the entire incentive funding formula be viewed as a whole package, of which the individual pieces fit together to achieve a package of desired results. Alteration of any one piece of the formula could shift the entire intended impact of the incentives in an undesirable way. The Work Group stresses that the near total consensus among the partners supporting this formula depends on the adoption of the package as a whole.

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

There is still work to be done to define each factor in each measure so that all States are counting the same things, whether cases, collections, or expenditures, and counting them consistently. The Work Group will meet again to settle any outstanding definitional issues. Many of these have already been addressed through the work of the OCSE Measuring Excellence Through Statistics (METS) Initiative. The Work Group agreed to adopt the definitions contained in the Outcome Measures document, e.g., cases in which there is no jurisdiction should be excluded.

In this report, the principles and constraints that guided the group's decisions are discussed. The general themes that are consistent in all measures are presented. Then each measure is presented in detail. Finally, there is a discussion about the relative importance of each measure and the determination of the collections on which the incentive funding is to be based.

### **SUMMARY OF RECOMMENDATIONS**

- **Measures.** The incentive system for State child support programs should measure State performance in five areas: establishment of paternities, establishment of child support orders, collections on current child support due, collection on past child support due (arrear), and cost effectiveness.
- **Standards.** The incentive system should provide additional monetary payments to States based upon State performance for each of the five measures. The amount of incentive for a particular measure should be based upon established standards of performance.
- **Collection Base.** The amount of potential incentive payments available to each individual State should be based upon a percentage of its own State collections - its "collection base." The collection base should include collections in both Temporary Assistance to Needy Families (TANF) cases and non-TANF cases. However, collections in TANF cases and former TANF cases should be given more weight.
- **Phase In.** The new incentive system should be phased in over a one year period beginning in fiscal year 2000.
- **Reinvestment.** Incentive payments received by a State should be reinvested in the State child support program.
- **Maintain FFP.** The Federal Financial Participation (FFP) rate for State program expenditures should remain at 66 percent.

FEB 27 1997 10:10 TO: ELENIA RACAN FROM: DADE, W. 11/10/99

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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- **Review Mechanism.** The new incentive system should be reviewed on a periodic basis to ensure that it continues to reward program goals.

### **PRINCIPLES**

In order to develop the incentive funding measures, the Work Group agreed to certain fundamental principles which would guide their discussion and decisions.

The Child Support Enforcement Program will put children first by creating an incentive funding formula that...

- is performance-based, encouraging improved program outcomes
- helps to achieve the goals articulated in the OCSE National Strategic Plan and avoids unintended consequences
- continues to respond promptly to improvements in the desired area of performance
- recognizes maintenance of high performance as well as improvement in performance level
- requires that incentive dollars and Federal matching funds be invested in the Child Support Enforcement program
- includes a mechanism that will allow the committee or the Secretary to review and change the formula in the future, if necessary, based on an evaluation of the results
- treats all children equitably
- is simple.

### **Performance Based**

The PRWORA legislation mandates that a new incentive funding formula based on performance should be proposed. In each of the five recommended measures, a State's performance in a specific program area (paternity, order establishment, current support collection, arrears collections, and cost effectiveness) is measured using a mathematical formula. All States that achieve performance above a specified minimum score in each of

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

the five measures are entitled to some portion of a maximum possible incentive. In four of the measures, the maximum incentive is available to those States scoring above a threshold of 80%. This target recognizes that for each measure there are factors which will make achievement of a perfect 100% score, whether for establishing paternity or collecting on current support, impossible. Some cases are beyond the control of the IV-D agency. In some wage withholding cases, because of the peculiarities of the calendar and payments cycles, payments may be attributed to arrearages. In the last formula, where there is no upper limit, the maximum incentive is achievable at a cost/effectiveness ratio above 5.0 (i.e. \$5 of child support is collected for each \$1 spent to collect it).

The formulas each have lower limits below which incentives are not paid unless the State makes a large increase over the previous year's performance. These lower limits were set by examining current performance data.

### **Goals of the Strategic Plan**

In February, 1995, the Federal Office of Child Support Enforcement and its State partners achieved consensus on the adoption of a National Strategic Plan for the program. The Plan consists of three major goals, as well as a number of objectives for each of the goals. This effort was a result of OCSE's participating as a pilot program for the Government Performance and Results Act.

After developing the goals and objectives for the Strategic Plan, the next step was to develop performance measures which would be used to measure results and the program's success in achieving the goals and objectives. A representative group, including some members of the Core Team that developed the Strategic Plan, Federal staff and State representatives, met over many months to develop these performance measures, which were agreed to by the States in July, 1996.

The Incentive Funding Work Group based much of its work on the groundwork done by the GPRA Performance Measure Work Group. The paternity establishment measure is derived from Goal I of the Strategic Plan, *All Children Have Parentage Established*. The order establishment measure comes from Goal II, *All Children in IV-D Cases Have Financial and Medical Support Orders*. The last three measures on current collections, arrears collections and cost effectiveness derive from Goal III, *All Children in IV-D Cases Receive Financial and Medical Support from Both Parents*. In this goal, there are several objectives, including "to increase the collection rate" and "to make the process more efficient and responsive." The measures specifically address these objectives.

The Incentive Work Group also worked to ensure that no performance measure would reward negative "unintended consequences." There was an effort to examine all ways a



INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

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recommendation for a formula that would not be put into effect until FY 2000. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Child Support Enforcement program is likely to change dramatically in the next few years. The effects on TANF and non-TANF caseloads are uncertain. This limits the reliability of the data upon which the recommendations of the Work Group are based. Because of these and other uncertainties about the program, the group felt that it was essential to build into the incentive funding formula a mechanism that would allow the Secretary, in consultation with the States, to review the program's results and examine any unanticipated and/or unintended consequences of the proposed formula and recommend changes based on these actual results every three to five years.

The group recommends that in the future a welfare cost avoidance measure be included at such time as a more reliable measure is developed.

It is essential that every effort be made to ensure that the performance data on which incentive payments will be made be reliable. While automation should improve the quality of the data, OCSB's audit staff will need to examine how the States are reporting data and help the States achieve reliable data reporting. This is anticipated under PRWORA, in new responsibilities for Federal audits.

#### **Treat All Children Equitably**

The recommended incentive funding formula is intended to continue the Child Support Enforcement program's effort to put children first. It has tried to ensure that children are served equitably and without discrimination by maintaining a balance between emphasizing the needs of TANF recipients, large and small States, interstate and intrastate cases, etc. The Work Group neither expected nor intended there to be any reduced efforts as a result of a State's earning less money based on performance.

#### **Simplicity**

The Work Group strived to reach consensus on a formula that would be simple to understand and administer, which at the same time would meet all of the above criteria. By taking a similar approach to each measure, in which outcomes were rewarded proportionately at the upper levels of performance, and substantial improvement was rewarded at the lower performance levels, the group attempted to achieve a degree of consistency and simplicity.

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## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

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### **CONSIDERATIONS**

At the same time that the Incentive Funding Work Group was guided by some fundamental principles, it tried to keep in mind some realistic constraints and process considerations in its deliberations. They wanted to recommend a formula that could be accepted by all who would be affected. These considerations, listed below, also affected the group's recommendations.

1. The formula recommended should be politically viable. All stakeholders should be considered. Stakeholder concerns were anticipated and addressed at every step of the process. The concerns with respect to each aspect of the formula were addressed and resolved.
2. Some States will lose money under a cost neutral new incentive funding scheme based on performance. Because the current system is not performance-based, each State is guaranteed to receive a minimum of 6% of collections in incentives. By moving to a formula that is based on performance and, at the same time, is cost neutral for the Federal government, some States will certainly lose incentive money in the future unless they improve their performance.
3. There must be built in flexibility to change the system (based on consultation with the States) if it is not working properly. If unintended consequences are discovered, the system should be changed. The world will change dramatically under welfare reform and the proposed formula might need to be changed because of that. Also, in the future, with welfare reform, it is possible that a measure could be developed to look at cost avoidance.
4. There should be as much advance notice to States as possible to allow for proper preparation, planning, and performance improvement. Advance planning time is necessary for budgeting purposes, for example. States need time to prepare for and achieve data reliability. There will be an incentive for States to clean up their caseloads.
5. The recommended incentive funding system should avoid possibilities of "gaming" the system and should also encourage early implementation by the States.
6. States should fund some part of their Child Support Enforcement program. They are mandated to fund 34% of the program. The Work Group expressed concern about those States that are "making profits" on the Child Support Enforcement program without returning these benefits to the program. The Work Group also felt that it was important to maintain the current level of federal financial participation (FFP) at 66%. Continued funding at the present level is critical to ensure that states have the necessary staff and resources to meet the new requirements and challenges.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

7. States should continue to worry about working the "tough" cases and about timeliness of service delivery. There is a critical need to reward success in assistance cases and former assistance cases.

### **GENERAL THEMES**

As mentioned previously, in order to keep the incentive funding formula relatively simple to understand, explain, and administer, there are certain consistencies in approach across all five measures. Also, there is a logic to the five measures chosen as they emphasize the logical development stages in a child support enforcement case: establishing paternity, establishing a support order, collecting current support due, collecting any arrears owed, and doing all of this in a cost effective manner.

States want their performance to be judged and compared with their own performance in the previous year. These measures are constructed to compare a State's performance to itself, not to a "national average."

In each case, there is an upper threshold for each State to achieve, most often set at 80% (and 5:1 ratio of collections to costs for the cost effectiveness measure). Any State that achieves this performance level, or any level above this, is entitled to the full incentive for that measure. The reasons for the 80% vary across the measures, but in general they include a recognition that this is a level that States can realistically strive to achieve. At the same time, the 80% recognizes that there will always be some cases in the caseload which, for a variety of reasons, will be impossible to work successfully.

At the lower end of the scale in each case, there is a minimum level below which the group felt that performance should not be rewarded unless a State demonstrates a substantial improvement over the prior year's performance. The group believes that substantial improvement should be recognized with some incentive funding, though never more than half of the maximum incentive possible. (The cost effectiveness measure is the exception to this rule.) This mechanism allows them some access to funding if the program is moving sufficiently quickly in the right direction.

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## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **PATERNITY MEASURE**

The first measure is based on the Paternity Establishment Percentage as defined in the Personal Responsibility and Work Opportunity Reconciliation Act on 1996. Under PRWORA, States may use either one of the following two measures:

#### **1. IV-D Paternity Establishment Percentage:**

The ratio that the total number of children in the IV-D caseload in the fiscal year or, at the option of the State, as of the end of the fiscal year, who have been born out of wedlock, the paternity of whom has been established or acknowledged bears to the total number of children in the IV-D caseload as of the end of the preceding fiscal year who were born out of wedlock.

Equation:

$$\frac{\text{Total \# of Children in IV-D Caseload in the Fiscal Year or, at the option of the State, as of the end of the Fiscal Year who were born out of wedlock with Paternity Established or Acknowledged}}{\text{Total \# of Children in IV-D Caseload as of the end of the preceding Fiscal Year who were Born Out of Wedlock}}$$

#### **2. Statewide Paternity Establishment Percentage:**

The ratio that the total number of minor children who have been born out of wedlock and the paternity has been established or acknowledged during the fiscal year, bears to the total number of children born out of wedlock during the preceding fiscal year.

$$\frac{\text{Total \# of Minor Children who have been Born Out of Wedlock and the Paternity has been Established or Acknowledged During the Fiscal Year}}{\text{Total \# of Children Born Out of Wedlock During the Preceding Fiscal Year}}$$

This measure is unique among the five measures in that, by statute, there are currently penalties based on the paternity measure. States are required to improve their performance by a specific amount or they are subject to penalties. The Work Group considered whether the incentives based on this measure should reflect, in some manner, the penalty scoring system. For example, the penalty system requires that States demonstrate improved performance over the previous year. There was a concern about whether States should be subject to penalties and be eligible for incentives at the same time. Some felt that the lack of incentive would make these States doubly penalized by not improving performance. The group concluded that States should be eligible for incentives based on performance even if they were subject to penalties because their performance had not improved to the extent required to avoid the penalty. An example illustrates the rationale for

**INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

this. If a State is at an 85% performance level one year, and increases to 86% the following year, it would be subject to a penalty for not achieving a 2% increase in performance. The Incentive Funding Work Group felt that the State should be rewarded for its high level of performance by receiving 100% of the possible incentive to encourage sustained performance. The paternity incentive is an integral part of the recognition and reward of State performance in the range of required program results, and, as such, merits distinction regardless of the potential for a penalty. The scale for the incentive funding on paternity is shown below:

**Paternity Establishment Percentage**

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (increases by 1% increments)	61% - 78% (increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 10%

If a State is performing at the 70% level, it is eligible for 80% of the incentive for this measure. If it is performing at the 77% level, it is eligible for 94% of the incentive for this measure. If performance drops from one year at 72% to the next year at 69%, the incentive percentage drops from 84% to 78%, but does not disappear altogether. If a State is at 48%, in order for that State to receive a percentage of incentive, it must have improved at least 10 percentage points over its prior year's performance. That is, the State would have had to have been at or below 38% the previous year in order to receive 50% of the incentive.

*Need ex = given X collections + X% paternity est  
 how much \$ incentive + (table)  
 how much \$ penalty*

*→ look @ PRWORA*

# INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF ILLS

## CASES WITH SUPPORT ORDERS

The second measure looks at the percentage of cases in the IV-D caseload that have orders for support. The equation to compute the incentive is as follows:

$$\frac{\text{Number of IV-D Cases with Support Orders}}{\text{Total Number of IV-D Cases}}$$

Again, this measure has a sliding scale so that an increased performance earns a higher level of the incentive. Any score above 80% earns the maximum possible incentive. Any score below 49% requires an improvement of at least 5% over the previous year's performance. The table below illustrates the scoring on this measure:

Order Establishment

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
51% - 69% (Increases by 1% increments)	61% - 78% (Increases by 1% increments)
50%	60%
49% and below	50% if increase by at least 5%

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF EHS

### COLLECTIONS ON CURRENT SUPPORT

The third measure focuses on the proportion of current support due that is collected on IV-D cases. This measure was felt to be very important because it gets to the crux of the program: regularly and dependably collecting support money that is due families.

The proportion of current support collected is expressed by the following formula:

$$\frac{\text{Total Dollars Collected for Current Support in IV-D Cases}}{\text{Total Dollars Owed for Current Support in IV-D Cases}}$$

The scoring for this measure is very similar to the one used for the first and second measures. However, the lower threshold is 39% for this measure, as opposed to 49% for the previous measure. This lower threshold is based on an examination of current collection data.

#### Collections on Current Support

Performance Level	% of Maximum Incentive
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (increases by 1% increments)	51% - 79% (increases by 1% increments)
40%	50%
39% and below	50% if at least 5% increase

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

### COLLECTIONS ON ARREARS

The fourth measure assesses efforts to collect money from those cases with an arrearage due. While the group wanted to emphasize the importance of collecting regularly the current support due to a family, they felt that it was important to include a measure that assessed the efforts to collect arrears owed.

This measure focuses on how well States are doing at collecting some amount of money on those cases having an arrearage. The measure specifically counts paying cases, and not total arrears dollars collected, because States have very different methods of handling certain aspects of arrears cases, such as their ability to write off bad debt or debt which is almost certainly "uncollectible." Some States aggressively seek judgments for unreimbursed assistance under State law. They also have different policies on case closure. Additionally, some States charge interest on arrears, which is considered additional arrearages, while others do not. In many cases, large arrearages already exist when an individual applies for assistance or seeks services under the program. Given these differences in practice, the group found no tenable method for completely leveling the playing field among the States. The measure selected comes as close as possible. In this measure, the group recognized the strong expectation of policy makers that inroads be made on the collection of the mounting arrearage.

The equation for this measure is below:

$$\frac{\text{Total number of IV-D cases paying toward arrears}}{\text{Total number of IV-D cases with arrears due}}$$

The scoring on this measure is similar to the previous two measures. However, there is a lower bottom threshold on this measure because of the difficulty in collecting on arrears cases, as seen evident in current performance data.

**INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

**Cases with Collections on Arrears**

<b>Performance Level</b>	<b>% of Maximum Incentive</b>
80% and above	100%
79%	98%
78%	96%
77%	94%
76%	92%
75%	90%
74%	88%
73%	86%
72%	84%
71%	82%
70%	80%
41% - 69% (1% increases)	51% - 70% (1% increases)
40%	50%
39% and below	50% if 5% increase

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

### COST EFFECTIVENESS

The final measure assesses the total dollars collected in the Child Support Enforcement program for each dollar expended. Currently, cost effectiveness is the only measure on which States are being judged. However, in the new incentive formula, unlike in current practice, total costs and collections are measured: there is no provision for separating assistance versus non-assistance collections over costs.

There are a number of reasons for looking at all costs together in the future. The greatest reason is the need to avoid continuing the perverse incentive in the current formula. States are better off under the current formula if families stay on public assistance. With welfare reform, the goal is fewer and fewer TANF cases as people move toward self-sufficiency. The formula should support, not subvert, this goal. It is also very difficult, and sometimes arbitrary, to reward these efforts separately.

The equation for cost effectiveness is as follows:

$$\frac{\text{Total IV-D Dollars Collected}}{\text{Total IV-D Dollars Expended}}$$

The incentives would be based on the scoring in the table below:

Cost Effectiveness

CE Ratio	% of Maximum Incentive
5.00 and above	100%
4.50 - 4.99	90%
4.00 - 4.49	80%
3.50 - 3.99	70%
3.00 - 3.49	60%
2.50 - 2.99	50%
2.00 - 2.49	40%
1.99 and below	0

This is the only measure for which there is no incentive given below a specific score, even if significant improvement occurs. The group felt that if the cost effectiveness ratio falls below 1.99, the State should earn no incentive because performance below that level is unacceptable.

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS**

### **WEIGHTING THE MEASURES**

Each State will earn five incentives based on performance on each of the five measures. However, there was a strong feeling among members of the Work Group that the measures were not of equal importance and should not carry an equal weight. After much discussion, the decision was reached to count the first three measures (paternity and order establishment and collections on current support) slightly more heavily than the last two (collections on arrears and cost effectiveness). For each of the first three measures, a 100% score earns 1% of the "expanded collections" as defined below. Lower scores earn a proportion of the 1%. The last two measures are worth at a maximum .75% of the "expanded collections." Lower scores, again, earn a lower proportion of this .75%. The choice of 1% and .75% derive from the necessity of using a cost-neutrality factor that will ensure that the amount of incentive money paid out under the new formula approximates the amount that would be paid under the current system. Minor adjustments can be made in the percentages chosen, if necessary, when final CBO projections are made.

It should be noted that the weighting of the measures is one of the areas that people felt might need revisiting after the program is in effect for a few years. At that time, simplicity may dictate giving all measures an equal weight. Or, on the other hand, the Child Support Enforcement program may seek to emphasize one aspect of the program over others. Shifting the weights of the measures accomplishes that aim.

### **INCENTIVES BASED ON COLLECTIONS**

The current incentive system is based on total TANF collections and non-TANF collections capped at 115% of TANF collections. Non-TANF collections, as currently defined, includes collections from former TANF cases. There are several problems that States are experiencing with this formula which will be exacerbated in the future. First, those States for whom a large percentage of the caseload is non-TANF are being penalized because they cannot count all of their non-TANF collections. This may not have been a problem when the cap was first established, but as States are successfully moving people off of assistance, the penalty continues. Additionally, it is possible that the number of assistance cases will decrease over time as the implementation of welfare reform moves people toward self-sufficiency. The result of this success would be a smaller and smaller number of assistance cases and collections which would result in fewer incentive dollars available to the States. Another result of capping the non-TANF collections is that States have less incentive to work non-TANF cases once the State has reached the cap. The Work Group felt that States ought to be rewarded and encouraged to work all cases. Therefore, the incentive base ought to include all non-TANF cases without a cap.

The Work Group felt that it was especially important to ensure that States had significant incentives to work TANF cases and former TANF cases. Collection of child support for these groups is especially important to assist TANF recipients to leave welfare and to help them achieve self sufficiency so that they do not return to welfare. Since

## **INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF ILLS**

collection in TANF and former TANF cases is generally more difficult than in non-TANF cases, and non-TANF collections are rising at a faster rate, it is sensible to provide a heavier emphasis on collection in TANF and former TANF cases. In addition, collections in TANF cases provides direct savings to the State and Federal governments. Therefore, the Work Group recommends adding collections made on former TANF cases to collections made on TANF cases and doubling these collections in the formula to give them extra emphasis. This has the added benefit of mitigating the impact of the change from the current incentive system with its cap on the non-TANF collections so that the potential collection base would be more equitable to States. The formula that the Work Group recommends is as follows:

$2(\text{TANF} + \text{former TANF}) + \text{non-TANF} = \text{expanded incentive collection base}$

\*non-TANF does not include former TANF

### **PHASE IN**

There is no question that certain States will lose money by using the new incentive funding formula, which is required to be cost neutral. To migrate from a system that guarantees a minimum incentive to everyone, regardless of performance, to a system that is based on rewarding performance, some States will receive lower incentives. To mitigate the loss of incentive funds that have been used to fund the program over the years, the group recommends that the new formula be phased in over a one year period. To accomplish this, for fiscal year 2000, a State would earn half of what it would have earned under the old incentive formula and half of what it earns under the new proposed formula. In fiscal year 2001, the new formula would be fully implemented.

## INCENTIVE FUNDING WORK GROUP REPORT TO THE SECRETARY OF HHS

### EXAMPLE

To illustrate the way the incentive funding formula would work, we will take the hypothetical case of the State of Xanadu. Let's assume that for Xanadu, the incentive funding base as defined previously is \$50,000,000. The incentive funding base is multiplied by the maximum values established for the measures, e.g., 1% for the first three measures and .75% for the last two measures. The product of that calculation is found in column B below. The following table illustrates the scores that Xanadu received on the five performance measures and their maximum value derived from standards tables for the five measures. Given these scores, the next step would be to multiply each score by the maximum value of the measure to get a total incentive amount.

Measure	Xanadu Performance Level	Percentage of Incentive (A)	Maximum Value of Incentive (\$) (B)	Incentive Payment (\$) (A) x (B)
1. Paternity	54%	64%	500,000	320,000
2. Order Establishment	79%	98%	500,000	490,000
3. Current Support	41%	51%	500,000	255,000
4. Arrears Cases Paying	40%	50%	375,000	187,500
5. Cost Effectiveness	\$3.00	60%	375,000	225,500
<b>TOTAL INCENTIVE EARNED</b>				<b>\$1,478,000</b>

### CONCLUSION

This report of the Incentive Funding Workgroup to the Secretary of Health and Human Services to the Congress recommends a new incentive funding formula for the child support enforcement program that recognizes a range of critical services. The recommended incentive funding formula, developed in partnership with States, rewards performance and is cost neutral. This formula will, in tandem with the strong child support provisions of PRWORA, greatly improve the support provided to America's children into the 21st century.

**APPENDIX**

**CHILD SUPPORT ENFORCEMENT  
INCENTIVE FUNDING WORKGROUP MEMBERS**

**Federal Representatives**

<u>Name</u>	<u>Organization</u>
Keith Bassett	HHS/ACF/OCSE
Sheck Chin	HHS/ACF/OCSE
Anne Donovan	HHS/ACF/OCSE
Robert Harris	HHS/ACF/OCSE
John Kersey	HHS/ACF/Region IX
Tom Killmurray	HHS/ACF/OCSE
Paul Legler	HHS/Office of the Secretary
Gailo Muller	HHS/ACF/OCSE
Elizabeth Matheson	HHS/ACF/OCSE
Joyce Pitts	HHS/ACF/OCSE
Tony Slade	HHS/ACF/Region V

**State Representatives**

<u>Name</u>	<u>State/Local</u>
Barry Bloomgren	Hennepin County, Minnesota
Tony DiNallo	Connecticut
Dianna Durham-McLoud	Illinois, Secretary/Treasurer, NCSCSEA
Wally Dutkowski	Michigan
Jerry Fay	Massachusetts, Vice President, NCSCSEA
Leslie Frye	California, Past President, NCSCSEA
Jim Hennessey	Iowa, President, NCSCSEA
Gordon Hood	Louisiana
Theresa Kaiser	Missouri
Cliff Layman	Maryland
Joyce McClaran	Tennessee
Nancy Mendoza	Arizona
Doris Sims	New Jersey
Glenda Straube	Alaska
Terry Walter	South Dakota

**HHS:** U.S. Department of Health and Human Services  
**ACF:** Administration for Children and Families  
**OCSE:** Office of Child Support Enforcement  
**NCSCSEA:** National Council of State Child Support Enforcement Administrators

## THE SOCIAL SECURITY ACT

### Sec. 458. Incentive payments to States

#### (a) Purpose; requirement; quarterly payments

In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of noncustodial parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e) of this section) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b) of this section.

#### (b) Incentive formula

(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to—

(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 608(a)(3) or section 671(a)(17) of this title (with such total amount for any fiscal year being hereafter referred to in this section as the State's title IV-A collections" for that year), plus

(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State's "non-title IV-A collections" for that year).

(2) If subsection (e) of this section applies with respect to a State's title IV-A collections or non-title IV-A collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year.

(3) The dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its non-title IV-A collections under paragraph (1)(B) (after adjustment under subsection (c) of this section if applicable) shall in no case exceed—

(A) the dollar amount of the portion of such payment which is determined on the basis of its title IV-A collections under paragraph (1)(A) (after adjustment under subsection (c) of this section if applicable) in the case of fiscal year 1986 or 1987;

(B) 105 percent of such dollar amount in the case of fiscal year 1988;

(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

(D) 115 percent of such dollar amount in the case of fiscal year

1990 or any fiscal year thereafter.

(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 655(a)(1)(A) of this title for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 655(a)(1)(A) of this title if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

(c) Increase in percentage; laboratory costs

If the total amount of a State's title IV-A collections or non-title IV-A collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 654 of this title for which payment may be made under section 655 of this title (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined title IV-A/non-title IV-A administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) of this section (with respect to such collections) shall be increased to--

(1) 6.5 percent, plus

(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds

1.4;

except that the percent so specified shall in no event be increased (for either title IV-A collections or non-title IV-A collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined combined title IV-A/non-title IV-A administrative costs for that year.

(d) Support collected on behalf of individuals residing in another State

In computing incentive payments under this section, support which is collected by one State at the request of another State shall be treated as having been collected in full by each such State, and any amounts expended by the States in carrying out a special project assisted under section 655(e) of this title shall be excluded.

(e) Estimates by Secretary; quarterly payments

The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to

which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated.

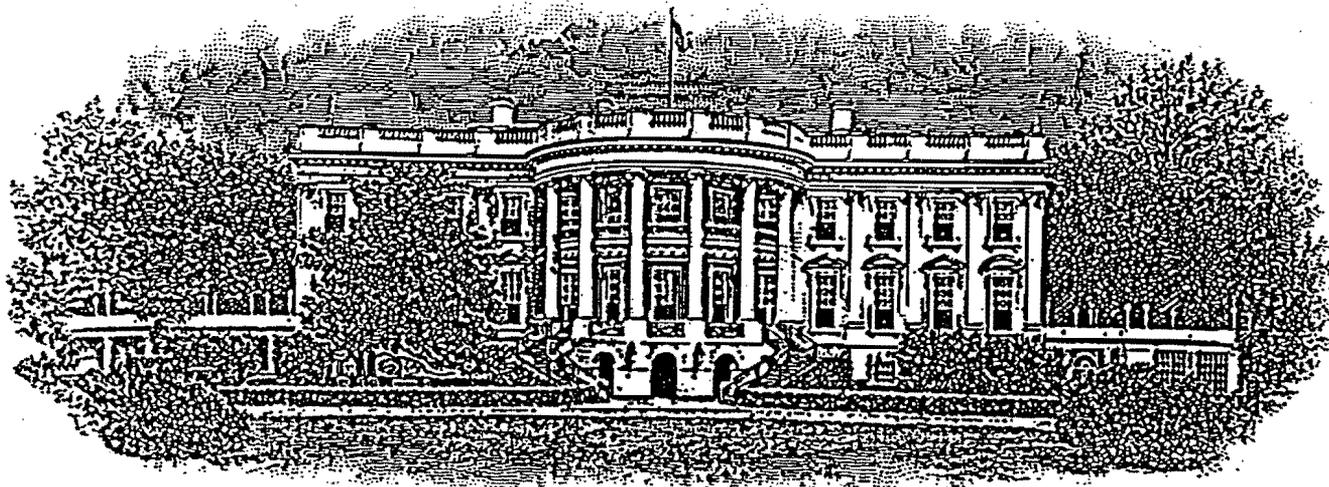
**THE PERSONAL RESPONSIBILITY  
AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996  
[Public Law 104-193]**

**SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.**

(a) **DEVELOPMENT OF NEW SYSTEM.**--The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than March 1, 1997, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

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# The White House



DOMESTIC POLICY

5/6

## FACSIMILE TRANSMISSION COVER SHEET

TO: Melinda Haskins

FAX NUMBER: 395-6148

TELEPHONE NUMBER: 395-3923

FROM: Cynthia Rice

TELEPHONE NUMBER: 456-2846

PAGES (INCLUDING COVER): 3

COMMENTS: \_\_\_\_\_

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LRM ID: MDH18  
Funding

SUBJECT: HHS Proposed Report on Child Support Enforcement Incentive

**RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM**

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

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

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

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

FROM: 5/5/97 (Date)  
Cynthia Rice (Name)  
White House DPC (Agency)  
456-2846 (Telephone)

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

Concur

No Objection

No Comment

See proposed edits on pages see attached

Other: \_\_\_\_\_

FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

**PROPOSAL FOR SECRETARY'S REPORT ON  
CHILD SUPPORT ENFORCEMENT INCENTIVE FORMULA**

**Changes to Secretary's Report**

On page 4, delete 2nd full paragraph starting "The paternity establishment measure..."

On page 5, insert at the end of the third to last paragraph after "right direction"):

These incentives will not change the substantial penalties imposed by public law 104-193 on all states with less than a 90 percent paternity establishment rating.

**Preparation of Additional Materials**

HHS to prepare materials to explain the relative sizes and uses of the paternity establishment penalties and the incentives with specific numeric examples from a fictitious state.

**Melinda D. Haskins** 03/04/97 03:45:21 PM

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Record Type: Record

To: Cynthia A. Rice/OPD/EOP  
cc: Cynthia M. Smith/OMB/EOP, Keith J. Fontenot/OMB/EOP  
Subject: Child Support Incentive Report Comments

Here are OMB's comments on the HHS child support enforcement incentive payment report.

----- Forwarded by Melinda D. Haskins/OMB/EOP on 03/04/97 03:46 PM  
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**Cynthia M. Smith**

03/04/97 03:43:01 PM

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Record Type: Record

To: Melinda D. Haskins/OMB/EOP  
cc: Wendy A. Taylor/OMB/EOP, Keith J. Fontenot/OMB/EOP, Lester D. Cash/OMB/EOP  
Subject: Child Support Incentive Report Comments

Cynthia M. Smith



**Cynthia M. Smith**

03/03/97 11:42:17 AM

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Record Type: Record

To: Keith J. Fontenot/OMB/EOP, Lester D. Cash/OMB/EOP  
cc:  
Subject: Proposed Comments to HHS

## **Comments on the Child Support Enforcement Incentive Funding Report to Congress**

### Cost Neutrality ( pgs.6-7)

The Cost Neutrality Section of the Report to Congress should be amended as follows:

“The statute requires the new system to be cost-neutral. Since the spending effects of the new system are untried and welfare reform substantially changed child support enforcement, the proposal needs to include provisions to ensure that aggregate incentive payments are what they would have been under the old system, even if baseline projections are wrong. HHS will work with OMB and its State partners to develop an automatic

adjuster to ensure cost neutrality.”

[One method to ensure cost-neutrality is to compare of amounts available under the new incentive structure against amounts that would have been paid as under the old system, given the same amount of nationwide collections. If the national total paid under the new incentive formula exceed amounts that would have otherwise been paid under the old system, the national total incentive funding available for distribution to the States would be reduced proportionately.]

#### Bifurcation of State Programs (pgs 1 & 9)

Given that the incentive system will be cost-neutral against prior law and continue to be financed from the Federal share of collections, a choice by some States to bifurcate child support services and reduce the Federal Share of collections may reduce the overall amount available for incentive payments. The report should indicate that, in the event that a legislative solution is not enacted, the Administration will propose a cost neutral plan so that States who continue to contribute their appropriate share of Federal child support collections will not be penalized under the new incentive system.

#### Paternity Establishment Incentive

This incentive would financially reward those States that do not meet the paternity establishment requirements of the welfare bill, and are subject to a penalty under law. Therefore, this proposal could be perceived as undermining the intent of the legislation. HHS explicitly discusses this concern in the Report to Congress, but does not propose a solution.

We do not disagree that it is good policy to reward States that make significant improvements in paternity establishment or sustain high performance. However, under HHS proposal, a State that establishes paternity in only 50% of the IV-D caseload, and shows no improvement over time, is still eligible for 60% of the incentive for this measure year after year. Penalties for States who continue to score low on this measure and show no reasonable improvement over time should not be forever offset by incentive payments. HHS should indicate in the Report to the Congress that they are "exploring ways to resolve this concern."

[HHS could write in an automatic adjustment to the proposed measure so that the expected level of performance to earn an incentive will increase over time. Eventually, the full incentive should not paid to States who do not reach 90% (as is required by law) and reasonable improvement should by shown by States who do not meet that threshold to earn a portion of the incentive].

#### Amendment to the Review Mechanism

In the attached Report to the Secretary, the Workgroup recommends that a **welfare cost avoidance measure** be developed once a reliable measure is available. This

recommendation should also be included in the report to Congress.

As mentioned in the Report to the Secretary, the report to Congress should underscore the importance of providing the Secretary with a review and correction mechanism in case the measures have unintended, unwanted consequences. For example, no performance incentive is provided for timeliness of service, although this is an important program goal and is the foundation of improvements in paternity establishments and collections. As HHS gains experience with the new performance-based audit system, it may be appropriate to factor timeliness of services or other factors into the incentive system.